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AMENDED IN ASSEMBLY MAY 4, 2015

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CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1140

Introduced by Assembly Member Bonta
(Principal coauthors: Senators Hancock and Nielsen)

February 27, 2015

An act to amend Sections 13952, 13954, 13955, 13956, 13957, 13957.5, 13957.7, 13957.9, 13959, 13963, 13965, 13971, 13972, and 13973 of the Government Code, and to amend Sections 1202.4 and 2085.5 and 4904 of the Penal Code, relating to the ~~California Victim Compensation and Government Claims Board~~, *crime victims*, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1140, as amended, Bonta. ~~California Victim Compensation and Government Claims Board~~. *Crime victims*.

(1) Existing law generally provides for the compensation of victims and derivative victims of specified types of crimes by the California Victim Compensation and Government Claims Board from the Restitution Fund, a continuously appropriated fund, for specified losses suffered as a result of those crimes. Existing law sets forth eligibility requirements and limits on the amount of compensation the board may

award, and requires the application for compensation to be verified under penalty of perjury. Existing law authorizes the board to recognize an authorized representative of a victim or derivative victim, including an attorney, the legal guardian, conservator, immediate family member, parent, or relative caregiver, certified victim assistance advocate, county social worker, or other persons, as specified, to represent the victim or derivative victim pursuant to rules adopted by the board.

This bill would expand the term “authorized representative” to mean any person designated by law or any person who has written authorization by the victim or derivative victim, excluding a medical or mental health provider who has provided services to the victim or derivative victim. *The bill would require the initial application materials sent by the board to an applicant to be written in English, Spanish, Chinese, Vietnamese, Korean, East Armenian, Tagalog, Russian, Arabic, Farsi, Hmong, Khmer, Punjabi, and Lao, and further require, if the applicant selects one of these languages, the board to send all subsequent communications in that language.*

(2) Existing law requires the board to verify any information it deems pertinent to an application for compensation, and requires the victim and the applicant, if other than the victim, to cooperate with the staff of the board or a victim and witness assistance center in this task. Existing law authorizes the board to reject an application solely on the basis that the victim or applicant failed to cooperate as required.

This bill would instead require the applicant to cooperate in verifying the application and would specify the circumstances under which an applicant may be found to have failed to cooperate with the board. *The bill would prohibit the board from requiring an applicant to submit documentation from the Internal Revenue Service, the Franchise Tax Board, the State Board of Equalization, the Social Security Administration, or the Employment Development Department to determine eligibility for compensation, but would specifically authorize the board to require and use documentation from these entities to verify the amount of compensation for income or support loss.*

(3) Existing law requires every law enforcement and social service agency in the state to provide to the board or to a contracted victim center reports involving the crime, public offense, or incident giving rise to a claim, for the specific purpose of the submission of a claim or the determination of eligibility to submit a claim.

This bill would instead require law enforcement and social service agencies to provide a complete copy of the law enforcement report and

other supplemental reports and documents for the purpose of determining the eligibility of a claim.

(4) Existing law requires a victim or derivative victim seeking compensation to have sustained one or more specified physical or emotional injuries, or pecuniary losses, as a direct result of the crime. Existing law includes among those injuries emotional injury that occurred due to a violation of provisions prohibiting child abduction, as specified, if the deprivation of custody endured for 30 calendar days or more.

This bill would include among those injuries emotional injury that occurred due to a violation of provisions prohibiting publishing or disseminating via an electronic communication device personal identifying information or a digital image of another person, without consent of the other person, and for the purpose of causing that other person injury or harassment, by a 3rd party. The bill would also require, in the case of emotional injury caused by a child abduction, only that criminal charges were filed.

The bill would also include among those injuries emotional injury to a minor victim that incurred as a direct result of the nonconsensual distribution of pictures or video of sexual conduct in which the minor appears. The bill would limit compensation for this type of injury to mental health counseling for the victim, and prohibit compensation to a derivative victim in this regard.

(5) Existing law, until January 1, 2017, authorizes the board to reimburse a crime victim or derivative victim for the amount of outpatient violence peer counseling-related expenses incurred by the victim or derivative victim from, among others, a service organization for victims of violent crime, as specified, and defines the term “violence peer counselor” as a provider of formal or informal counseling services who is employed by a service organization for victims of violent crime and meets specified requirements, including, among others, that he or she possesses at least 6 months of full-time equivalent experience in providing peer support services.

This bill would specify that a service organization for victims of violent crime is a nonprofit and charitable organization instead of a nongovernmental organization. The bill would require that any peer counseling services that fall under the scope of practice of certain acts, including, among others, the Clinical Social Worker Practice Act, be performed by a licensee or a registrant of the Board of Behavioral Sciences or other appropriately licensed professional unless in an exempt

setting. The bill would change the definition of “violence peer counselor” to a provider of supportive and *peer* nonpsychotherapeutic counseling services.

(6) Existing law requires the board to deny an application if it finds that the victim or derivative victim knowingly and willingly participated in the commission of the crime that resulted in the pecuniary loss for which compensation is being sought, except as specified.

This bill would instead authorize an application for compensation to be denied, in whole or in part, if the board finds that denial is appropriate based upon consideration of specified factors in determining the nature of the victim’s or other applicant’s involvement in the events leading to the crime, or the involvement of the person whose injury or death gives rise to the application, and specified factors that may be considered to mitigate or overcome that involvement.

(7) Existing law requires an application to be denied if the victim failed to cooperate reasonably with law enforcement in apprehending and convicting the person who committed the crime.

This bill would prohibit a victim of domestic violence from being determined to have failed to cooperate based on his or her conduct with law enforcement at the scene of the crime, and would prohibit lack of cooperation from being found solely because a victim of sexual assault, domestic violence, or human trafficking delayed reporting the qualifying crime. The bill would also prohibit a claim based on a sexual assault from being denied solely because a police report was not made by the victim. The bill would require the board to adopt guidelines that allow it to consider and approve applications for assistance based on a sexual assault relying upon evidence other than a police report to establish that a sexual assault crime has occurred.

(8) Existing law prohibits any person who is convicted of a felony from being granted compensation until he or she has been discharged from probation or has been released from a correctional institution, and has been discharged from parole, if any. Existing law prohibits compensation from being granted to an applicant being held in a correctional institution. Existing law prioritizes the applications of victims who are not felons over those who are felons who have been discharged from probation or have been released from a correctional institution, and have been discharged from parole.

This bill would instead prohibit any person who is convicted of a violent felony, as specified, from being granted compensation until he or she is discharged from probation or released from a correctional

institution, and discharged from parole, or until he or she is discharged from postrelease community supervision or mandatory supervision. This bill would also prohibit compensation from being granted to an applicant while he or she is required to be registered as a sex offender. This bill would remove provisions prioritizing the applications of victims who are not felons.

(9) Existing law authorizes derivative victims, including parents and siblings, of a victim of a crime that directly led to the death of the victim, to be reimbursed for the expense of their outpatient mental health counseling.

This bill would include grandparents and grandchildren among those derivative victims who are eligible to be reimbursed for their mental health counseling. Because an application for reimbursement is required to be submitted under penalty of perjury, this bill would expand the definition of a crime and thus impose a state-mandated local program.

(10) Existing law limits the reimbursement amount for outpatient mental health counseling of a victim of a crime of unlawful intercourse with a minor in which a person 21 years of age or older engaged in an act of unlawful sexual intercourse with a minor who was under 16 years of age to an amount not exceeding \$5,000. Existing law prohibits a derivative victim of that crime from being eligible to receive reimbursement for mental health counseling expenses.

This bill would remove provisions limiting this reimbursement of a victim of a crime of unlawful intercourse with a minor, as described above, and remove provisions prohibiting a derivative victim of that crime from being eligible to receive reimbursement for mental health counseling expenses.

(11) Existing law authorizes the board to grant reimbursement for pecuniary loss of the expense of nonmedical remedial care and treatment rendered in accordance with a religious method of healing recognized by state law if it determines it will best aid the person seeking compensation.

This bill would remove this provision authorizing reimbursement for this type of care or treatment.

(12) Existing law authorizes the board to grant for pecuniary loss if it determines it will best aid the person seeking compensation reimbursement for the expense of installing or increasing residential security, if it receives verification by law enforcement that the security measures are necessary for the personal safety of the claimant or

verification by a mental health treatment provider that the security measures are necessary for the emotional well-being of the claimant.

This bill would remove the provisions requiring the verification by law enforcement or a mental health treatment provider described above.

(13) Existing law also allows reimbursement for renovating or retrofitting a victim's residence or vehicle for a victim permanently disabled by the crime, as specified.

The bill would also allow reimbursement for the purchase of a vehicle for a victim permanently disabled by the crime.

(14) Existing law authorizes the board to provide a cash payment to a victim for expenses incurred in relocating, as specified, and requires a victim of sexual assault or domestic violence, who receives a relocation payment to, among other things, agree not to allow the offender on the premises at any time. Existing law also authorizes the board to provide reimbursement to any individual who voluntarily, and without anticipation of personal gain, pays or assumes the obligation to pay the reasonable costs to clean the scene of the crime inside a residence in an amount not to exceed ~~\$1,000~~, *\$1,000, or a crime victim's funeral or burial expenses, up to \$7,500, as specified.*

This bill would authorize the board to require a victim to repay the relocation payment or reimbursement to the board if he or she violates those terms. The bill would also require the board to be named as the recipient of funds upon the expiration of a rental agreement if a security deposit was required for a relocation.

This bill would also authorize the board to reimburse any individual who voluntarily, and without anticipation of personal gain, pays or assumes the obligation to pay the reasonable costs for a trauma scene waste practitioner to clean the scene of the crime if the crime occurred inside a vehicle. *The bill would prohibit the board from creating or complying with a regulation or policy that mandates a lower maximum potential amount of an award for the compensation of a crime victim's funeral or burial expenses than prescribed by statute.*

(15) Existing law authorizes the board to pay attorney's fees for legal services rendered to an applicant, in an amount equal to 10% of the amount of the award, or \$500, whichever is less, for each victim and each derivative victim.

This bill would authorize the board to request that an attorney provide verification, and to contact an applicant to verify, that legal services were provided.

(16) Existing law requires the board to grant a hearing to an applicant who contests a staff recommendation to deny compensation. Existing law requires the board to schedule the hearing in as convenient a location as possible if the applicant's presence is required. Existing law authorizes the board to grant no more than one request for reconsideration with respect to any one decision on an application for compensation.

This bill would also authorize the hearing to be conducted by telephone. The bill would also prohibit evidence submitted after the board has denied a request for reconsideration from being considered unless the board chooses to reconsider its decision on its own motion.

(17) Existing law provides that the board is entitled to a lien on any judgment, award, or settlement in favor of or on behalf of the recipient for losses suffered as a direct result of the crime that was the basis for receipt of compensation in the amount of the compensation granted by the board. If a claim is filed within one year of the date of recovery, the board is required to pay 25% of the amount of the recovery that is subject to a lien on the judgment, award, or settlement, to the recipient responsible for recovery thereof from the perpetrator of the crime, provided that the total amount of the lien is recovered and the remaining 75% is deposited in the Restitution Fund, a continuously appropriated fund.

This bill would instead require the board to pay 25% of the amount of the recovery that is subject to a lien on the judgment, award, or settlement, to the recipient responsible for recovery only if the recipient notified the board of the action prior to receiving any recovery with the remainder being deposited into the Restitution Fund. By increasing deposits to be made to a continuously appropriated fund, this bill would make an appropriation.

(18) Under existing law, a person who has been overpaid pursuant to these provisions governing victim compensation is liable for that amount, except as specified.

This bill would require that all actions to collect overpayments be commenced within 7 years of the date of the overpayment, except as specified. The bill would also authorize any recipient of an overpayment to contest the related staff recommendation.

(19) Existing law authorizes a private citizen, his or her surviving spouse, his or her surviving children, or a person dependent upon the citizen for his or her principal support to file a claim for indemnification, as specified, if the private citizen incurred personal injury, death, or

damage to his or her property in preventing the commission of a crime, in apprehending a criminal, or rescuing a person in immediate danger of injury or death as a result of fire, drowning, or other catastrophe. Existing law defines “private citizen” for this and related provisions as a natural person except as specified.

This bill would also authorize any person who is legally liable for the citizen’s pecuniary losses to file a claim for indemnification. This bill would revise the definition of “private citizen” to mean a person, except as specified.

(20) Existing law provides that if a parolee or a prisoner owes a specified order of restitution, any moneys owing are collected from the parolee or prisoner, as specified, and transferred to the California Victim Compensation and Government Claims Board for direct payment to the victim. Existing law requires that the victim be paid within 60 days from the date the restitution revenues are received, however, the restitution payment need not be forwarded to that victim unless it is \$50 or more, or until 180 days from the date the first payment is received, whichever occurs sooner.

This bill would provide instead that the payment need not be forwarded to the victim until it is \$25 or more, or the victim requests payment of the lesser amount.

~~(21) Existing law requires, if the evidence shows that the crime with which the claimant was charged was either not committed at all, or, if committed, was not committed by the claimant, and that the claimant has sustained pecuniary injury through his or her erroneous conviction and imprisonment, the California Victim Compensation and Government Claims Board to report the facts of the case and its conclusions to the next Legislature with recommendation that an appropriation be made by the Legislature for the purpose of indemnifying the claimant for the pecuniary injury. Existing law further requires that the amount of the appropriation recommended be a sum equivalent to \$100 per day of incarceration served after the claimant’s conviction and that the appropriation not be treated as gross income to the recipient under the Revenue and Taxation Code.~~

~~This bill would remove the requirement that a sustained injury be a pecuniary injury and increase the amount of the recommended appropriation to \$140 per day of incarceration served, including any time spent in custody in county jail that is considered to be part of the term of incarceration.~~

(21) Existing law requires board hearings to be informal and authorizes these hearings to not be conducted according to the technical rules relating to evidence and witnesses.

This bill would require the board to allow a service animal to accompany and support a witness while testifying at a board hearing.

(22) Existing law requires the court to order a person who is convicted of a crime to pay restitution to the victim or victims for the full amount of economic loss, unless the court finds compelling and extraordinary reasons for not doing so and states them on the record. Existing law provides the defendant the right to a hearing before a judge to dispute the determination of the amount of restitution and authorizes the court to modify the amount of restitution.

This bill would authorize a victim at a restitution or modification hearing to testify by live, 2-way audio and video transmission, if that type of transmission is available at the court.

~~(22)~~

(23) The bill would make other conforming and nonsubstantive changes.

~~(23)~~

(24) By expanding the authorizations for use of moneys in the Restitution Fund, a continuously appropriated fund, this bill would make an appropriation.

~~(24)~~

(25) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 13952 of the Government Code is
2 amended to read:

3 13952. (a) An application for compensation shall be filed with
4 the board in the manner determined by the board.

5 (b) (1) The application for compensation shall be verified under
6 penalty of perjury by the individual who is seeking compensation,
7 who may be the victim or derivative victim, or an individual

1 seeking reimbursement for burial, funeral, or crime scene cleanup
2 expenses pursuant to subdivision (a) of Section 13957. If the
3 individual seeking compensation is a minor or is incompetent, the
4 application shall be verified under penalty of perjury or on
5 information and belief by the parent with legal custody, guardian,
6 conservator, or relative caregiver of the victim or derivative victim
7 for whom the application is made. However, if a minor seeks
8 compensation only for expenses for medical, medical-related,
9 psychiatric, psychological, or other mental health
10 counseling-related services and the minor is authorized by statute
11 to consent to those services, the minor may verify the application
12 for compensation under penalty of perjury.

13 (2) For purposes of this subdivision, “relative caregiver” means
14 a relative as defined in paragraph (2) of subdivision (h) of Section
15 6550 of the Family Code, who assumed primary responsibility for
16 the child while the child was in the relative’s care and control, and
17 who is not a biological or adoptive parent.

18 (c) (1) The board may require submission of additional
19 information supporting the application that is reasonably necessary
20 to verify the application and determine eligibility for compensation.

21 (2) The staff of the board shall determine whether an application
22 for compensation contains all of the information required by the
23 board. If the staff determines that an application does not contain
24 all of the required information, the staff shall communicate that
25 determination to the applicant with a brief statement of the
26 additional information required. The applicant, within 30 calendar
27 days of being notified that the application is incomplete, may either
28 supply the additional information or appeal the staff’s
29 determination to the board, which shall review the application to
30 determine whether it is complete.

31 (3) *The board shall not require an applicant to submit*
32 *documentation from the Internal Revenue Service, the Franchise*
33 *Tax Board, the State Board of Equalization, the Social Security*
34 *Administration, or the Employment Development Department to*
35 *determine eligibility for compensation. The board may require*
36 *and use documentation from these entities to verify the amount of*
37 *compensation for income or support loss.*

38 (d) (1) The board may recognize an authorized representative
39 of the victim or derivative victim, who shall represent the victim
40 or derivative victim pursuant to rules adopted by the board.

1 (2) For purposes of this subdivision, “authorized representative”
2 means any of the following:

3 (A) Any person who has written authorization by the victim or
4 derivative victim. However, a medical or mental health provider,
5 or agent of the medical or mental health provider, who has provided
6 services to the victim or derivative victim shall not be allowed to
7 be an authorized representative.

8 (B) Any person designated by law including, but not limited to,
9 a legal guardian, conservator, or social worker.

10 (3) Except for attorney’s fees awarded under this chapter, no
11 authorized representative described in paragraph (2) shall charge,
12 demand, receive, or collect any amount for services rendered under
13 this subdivision.

14 (4) *The initial application materials sent by the board to an*
15 *applicant shall be written in English, Spanish, Chinese,*
16 *Vietnamese, Korean, East Armenian, Tagalog, Russian, Arabic,*
17 *Farsi, Hmong, Khmer, Punjabi, and Lao. If the applicant selects*
18 *one of the languages listed in this subdivision, the board shall send*
19 *all subsequent communications in that language.*

20 SEC. 2. Section 13954 of the Government Code is amended
21 to read:

22 13954. (a) The board shall verify with hospitals, physicians,
23 law enforcement officials, or other interested parties involved, the
24 treatment of the victim or derivative victim, circumstances of the
25 crime, amounts paid or received by or for the victim or derivative
26 victim, and any other pertinent information deemed necessary by
27 the board. Verification information shall be returned to the board
28 within 10 business days after a request for verification has been
29 made by the board. Verification information shall be provided at
30 no cost to the applicant, the board, or victim centers. When
31 requesting verification information, the board shall certify that a
32 signed authorization by the applicant is retained in the applicant’s
33 file and that this certification constitutes actual authorization for
34 the release of information, notwithstanding any other provision of
35 law. If requested by a physician or mental health provider, the
36 board shall provide a copy of the signed authorization for the
37 release of information.

38 (b) (1) The applicant shall cooperate with the staff of the board
39 or the victim center in the verification of the information contained
40 in the application. Failure to cooperate shall be reported to the

1 board, which, in its discretion, may reject the application solely
2 on this ground.

3 (2) An applicant may be found to have failed to cooperate with
4 the board if any of the following occur:

5 (A) The applicant has information, or there is information that
6 he or she may reasonably obtain, that is needed to process the
7 application or supplemental claim, and the applicant failed to
8 provide the information after being requested to do so by the board.
9 The board shall take the applicant's economic, psychosocial, and
10 postcrime traumatic circumstances into consideration, and shall
11 not unreasonably reject an application solely for failure to provide
12 information.

13 (B) The applicant provided, or caused another to provide, false
14 information regarding the application or supplemental claim.

15 (C) The applicant refused to apply for other benefits potentially
16 available to him or her from other sources besides the board
17 including, but not limited to, worker's compensation, state
18 disability insurance, social security benefits, and unemployment
19 insurance.

20 (D) The applicant threatened violence or bodily harm to a
21 member of the board or staff.

22 (c) The board may contract with victim centers to provide
23 verification of applications processed by the centers pursuant to
24 conditions stated in subdivision (a). The board and its staff shall
25 cooperate with the Office of Criminal Justice Planning and victim
26 centers in conducting training sessions for center personnel and
27 shall cooperate in the development of standardized verification
28 procedures to be used by the victim centers in the state. The board
29 and its staff shall cooperate with victim centers in disseminating
30 standardized board policies and findings as they relate to the
31 centers.

32 (d) (1) Notwithstanding Section 827 of the Welfare and
33 Institutions Code or any other provision of law, every law
34 enforcement and social service agency in the state shall provide
35 to the board or to victim centers that have contracts with the board
36 pursuant to subdivision (c), upon request, a complete copy of the
37 law enforcement report and any supplemental reports involving
38 the crime or incident giving rise to a claim, a copy of a petition
39 filed in a juvenile court proceeding, reports of the probation officer,
40 and any other document made available to the probation officer

1 or to the judge, referee, or other hearing officer, for the specific
2 purpose of determining the eligibility of a claim filed pursuant to
3 this chapter.

4 (2) The board and victim centers receiving records pursuant to
5 this subdivision may not disclose a document that personally
6 identifies a minor to anyone other than the minor who is so
7 identified, his or her custodial parent or guardian, the attorneys
8 for those parties, and any other persons that may be designated by
9 court order. Any information received pursuant to this section shall
10 be received in confidence for the limited purpose for which it was
11 provided and may not be further disseminated. A violation of this
12 subdivision is a misdemeanor punishable by a fine not to exceed
13 five hundred dollars (\$500).

14 (3) The law enforcement agency supplying information pursuant
15 to this section may withhold the names of witnesses or informants
16 from the board, if the release of those names would be detrimental
17 to the parties or to an investigation in progress.

18 (e) Notwithstanding any other provision of law, every state
19 agency, upon receipt of a copy of a release signed in accordance
20 with the Information Practices Act of 1977 (Chapter 1
21 (commencing with Section 1798) of Title 1.8 of Part 4 of Division
22 3 of the Civil Code) by the applicant or other authorized
23 representative, shall provide to the board or victim center the
24 information necessary to complete the verification of an application
25 filed pursuant to this chapter.

26 (f) The Department of Justice shall furnish, upon application of
27 the board, all information necessary to verify the eligibility of any
28 applicant for benefits pursuant to subdivision (c) of Section 13956,
29 to recover any restitution fine or order obligations that are owed
30 to the Restitution Fund or to any victim of crime, or to evaluate
31 the status of any criminal disposition.

32 (g) A privilege is not waived under Section 912 of the Evidence
33 Code by an applicant consenting to disclosure of an otherwise
34 privileged communication if that disclosure is deemed necessary
35 by the board for verification of the application.

36 (h) Any verification conducted pursuant to this section shall be
37 subject to the time limits specified in Section 13958.

38 (i) Any county social worker acting as the applicant for a child
39 victim or elder abuse victim shall not be required to provide
40 personal identification, including, but not limited to, the applicant's

1 date of birth or social security number. County social workers
2 acting in this capacity shall not be required to sign a promise of
3 repayment to the board.

4 SEC. 3. Section 13955 of the Government Code is amended
5 to read:

6 13955. Except as provided in Section 13956, a person shall be
7 eligible for compensation when all of the following requirements
8 are met:

9 (a) The person for whom compensation is being sought is any
10 of the following:

11 (1) A victim.

12 (2) A derivative victim.

13 (3) (A) A person who is entitled to reimbursement for funeral,
14 burial, or crime scene cleanup expenses pursuant to paragraph (9)
15 or (10) of subdivision (a) of Section 13957.

16 (B) This paragraph applies without respect to any felon status
17 of the victim.

18 (b) Either of the following conditions is met:

19 (1) The crime occurred in California. This paragraph shall apply
20 only during those time periods during which the board determines
21 that federal funds are available to the state for the compensation
22 of victims of crime.

23 (2) Whether or not the crime occurred in California, the victim
24 was any of the following:

25 (A) A resident of California.

26 (B) A member of the military stationed in California.

27 (C) A family member living with a member of the military
28 stationed in California.

29 (c) If compensation is being sought for a derivative victim, the
30 derivative victim is a resident of California, or any other state, who
31 is any of the following:

32 (1) At the time of the crime was the parent, grandparent, sibling,
33 spouse, child, or grandchild of the victim.

34 (2) At the time of the crime was living in the household of the
35 victim.

36 (3) At the time of the crime was a person who had previously
37 lived in the household of the victim for a period of not less than
38 two years in a relationship substantially similar to a relationship
39 listed in paragraph (1).

1 (4) Is another family member of the victim, including, but not
2 limited to, the victim's fiancé or fiancée, and who witnessed the
3 crime.

4 (5) Is the primary caretaker of a minor victim, but was not the
5 primary caretaker at the time of the crime.

6 (d) The application is timely pursuant to Section 13953.

7 (e) (1) Except as provided in paragraph (2), the injury or death
8 was a direct result of a crime.

9 (2) Notwithstanding paragraph (1), no act involving the
10 operation of a motor vehicle, aircraft, or water vehicle that results
11 in injury or death constitutes a crime for the purposes of this
12 chapter, except when the injury or death from such an act was any
13 of the following:

14 (A) Intentionally inflicted through the use of a motor vehicle,
15 aircraft, or water vehicle.

16 (B) Caused by a driver who fails to stop at the scene of an
17 accident in violation of Section 20001 of the Vehicle Code.

18 (C) Caused by a person who is under the influence of any
19 alcoholic beverage or drug.

20 (D) Caused by a driver of a motor vehicle in the immediate act
21 of fleeing the scene of a crime in which he or she knowingly and
22 willingly participated.

23 (E) Caused by a person who commits vehicular manslaughter
24 in violation of subdivision (b) of Section 191.5, subdivision (c) of
25 Section 192, or Section 192.5 of the Penal Code.

26 (F) Caused by any party where a peace officer is operating a
27 motor vehicle in an effort to apprehend a suspect, and the suspect
28 is evading, fleeing, or otherwise attempting to elude the peace
29 officer.

30 (f) As a direct result of the crime, the victim or derivative victim
31 sustained one or more of the following:

32 (1) Physical injury. The board may presume a child who has
33 been the witness of a crime of domestic violence has sustained
34 physical injury. A child who resides in a home where a crime or
35 crimes of domestic violence have occurred may be presumed by
36 the board to have sustained physical injury, regardless of whether
37 the child has witnessed the crime.

38 (2) Emotional injury and a threat of physical injury.

39 (3) Emotional injury, where the crime was a violation of any of
40 the following provisions:

1 (A) Section 236.1, 261, 262, 271, 273a, 273d, 285, 286, 288,
2 288a, 288.5, 289, or 653.2, or subdivision (b) or (c) of Section
3 311.4, of the Penal Code.

4 (B) Section 270 of the Penal Code, where the emotional injury
5 was a result of conduct other than a failure to pay child support,
6 and criminal charges were filed.

7 (C) Section 261.5 of the Penal Code, and criminal charges were
8 filed.

9 (D) Section 278 or 278.5 of the Penal Code, and criminal
10 charges were filed. For purposes of this paragraph, the child, and
11 not the nonoffending parent or other caretaker, shall be deemed
12 the victim.

13 (4) Injury to, or the death of, a guide, signal, or service dog, as
14 defined in Section 54.1 of the Civil Code, as a result of a violation
15 of Section 600.2 or 600.5 of the Penal Code.

16 (5) Emotional injury to a victim who is a minor incurred as a
17 direct result of the nonconsensual distribution of pictures or video
18 of sexual conduct in which the minor appears.

19 (g) The injury or death has resulted or may result in pecuniary
20 loss within the scope of compensation pursuant to Sections 13957
21 to 13957.7, inclusive.

22 SEC. 4. Section 13956 of the Government Code is amended
23 to read:

24 13956. Notwithstanding Section 13955, a person shall not be
25 eligible for compensation under the following conditions:

26 (a) An application may be denied, in whole or in part, if the
27 board finds that denial is appropriate because of the nature of the
28 victim's or other applicant's involvement in the events leading to
29 the crime, or the involvement of the person whose injury or death
30 gives rise to the application.

31 (1) Factors that may be considered in determining whether the
32 victim or derivative victim was involved in the events leading to
33 the qualifying crime include, but are not limited to:

34 (A) The victim or derivative victim initiated the qualifying
35 crime, or provoked or aggravated the suspect into initiating the
36 qualifying crime.

37 (B) The qualifying crime was a reasonably foreseeable
38 consequence of the conduct of the victim or derivative victim.

39 (C) The victim or derivative victim was committing a crime
40 that could be charged as a felony and reasonably lead to him or

1 her being victimized. However, committing a crime shall not be
2 considered involvement if the victim's injury or death occurred as
3 a direct result of a crime committed in violation of Section 261,
4 262, or 273.5 of, or for a crime of unlawful sexual intercourse with
5 a minor *in* violation of subdivision (d) of Section 261.5 of, the
6 Penal Code.

7 (2) If the victim is determined to have been involved in the
8 events leading to the qualifying crime, factors that may be
9 considered to mitigate or overcome involvement include, but are
10 not limited to:

11 (A) The victim's injuries were significantly more serious than
12 reasonably could have been expected based on the victim's level
13 of involvement.

14 (B) A third party interfered in a manner not reasonably
15 foreseeable by the victim or derivative victim.

16 (C) The board shall consider the victim's age, physical
17 condition, and psychological state, as well as any compelling health
18 and safety concerns, in determining whether the application should
19 be denied pursuant to this section. The application of a derivative
20 victim of domestic violence under 18 years of age or derivative
21 victim of trafficking under 18 years of age shall not be denied on
22 the basis of the denial of the victim's application under this
23 subdivision.

24 (b) (1) An application shall be denied if the board finds that
25 the victim or, if compensation is sought by, or on behalf of, a
26 derivative victim, either the victim or derivative victim failed to
27 cooperate reasonably with a law enforcement agency in the
28 apprehension and conviction of a criminal committing the crime.
29 In determining whether cooperation has been reasonable, the board
30 shall consider the victim's or derivative victim's age, physical
31 condition, and psychological state, cultural or linguistic barriers,
32 any compelling health and safety concerns, including, but not
33 limited to, a reasonable fear of retaliation or harm that would
34 jeopardize the well-being of the victim or the victim's family or
35 the derivative victim or the derivative victim's family, and giving
36 due consideration to the degree of cooperation of which the victim
37 or derivative victim is capable in light of the presence of any of
38 these factors. A victim of domestic violence shall not be determined
39 to have failed to cooperate based on his or her conduct with law
40 enforcement at the scene of the crime. Lack of cooperation shall

1 also not be found solely because a victim of sexual assault,
2 domestic violence, or human trafficking delayed reporting the
3 qualifying crime.

4 (2) An application for a claim based on domestic violence shall
5 not be denied solely because a police report was not made by the
6 victim. The board shall adopt guidelines that allow the board to
7 consider and approve applications for assistance based on domestic
8 violence relying upon evidence other than a police report to
9 establish that a domestic violence crime has occurred. Factors
10 evidencing that a domestic violence crime has occurred may
11 include, but are not limited to, medical records documenting
12 injuries consistent with allegations of domestic violence, mental
13 health records, or that the victim has obtained a permanent
14 restraining order.

15 (3) An application for a claim based on a sexual assault shall
16 not be denied solely because a police report was not made by the
17 victim. The board shall adopt guidelines that allow it to consider
18 and approve applications for assistance based on a sexual assault
19 relying upon evidence other than a police report to establish that
20 a sexual assault crime has occurred. Factors evidencing that a
21 sexual assault crime has occurred may include, but are not limited
22 to, medical records documenting injuries consistent with allegations
23 of sexual assault, mental health records, or that the victim received
24 a sexual assault examination.

25 (4) An application for a claim based on human trafficking as
26 defined in Section 236.1 of the Penal Code shall not be denied
27 solely because no police report was made by the victim. The board
28 shall adopt guidelines that allow the board to consider and approve
29 applications for assistance based on human trafficking relying
30 upon evidence other than a police report to establish that a human
31 trafficking crime as defined in Section 236.1 of the Penal Code
32 has occurred. That evidence may include any reliable corroborating
33 information approved by the board, including, but not limited to,
34 the following:

35 (A) A Law Enforcement Agency Endorsement issued pursuant
36 to Section 236.2 of the Penal Code.

37 (B) A human trafficking-~~caseworker~~ *caseworker*, as identified
38 in Section 1038.2 of the Evidence Code, has attested by affidavit
39 that the individual was a victim of human trafficking.

1 (5) (A) An application for a claim by a military personnel victim
2 based on a sexual assault by another military personnel shall not
3 be denied solely because it was not reported to a superior officer
4 or law enforcement at the time of the crime.

5 (B) Factors that the board shall consider for purposes of
6 determining if a claim qualifies for compensation include, but are
7 not limited to, the evidence of the following:

8 (i) Restricted or unrestricted reports to a military victim
9 advocate, sexual assault response coordinator, chaplain, attorney,
10 or other military personnel.

11 (ii) Medical or physical evidence consistent with sexual assault.

12 (iii) A written or oral report from military law enforcement or
13 a civilian law enforcement agency concluding that a sexual assault
14 crime was committed against the victim.

15 (iv) A letter or other written statement from a sexual assault
16 counselor, as defined in Section 1035.2 of the Evidence Code,
17 licensed therapist, or mental health counselor, stating that the
18 victim is seeking services related to the allegation of sexual assault.

19 (v) A credible witness to whom the victim disclosed the details
20 that a sexual assault crime occurred.

21 (vi) A restraining order from a military or civilian court against
22 the perpetrator of the sexual assault.

23 (vii) Other behavior by the victim consistent with sexual assault.

24 (C) For purposes of this subdivision, the sexual assault at issue
25 shall have occurred during military service, including deployment.

26 (D) For purposes of this subdivision, the sexual assault may
27 have been committed off base.

28 (E) For purposes of this subdivision, a “perpetrator” means an
29 individual who is any of the following at the time of the sexual
30 assault:

31 (i) An active duty military personnel from the United States
32 Army, Navy, Marine Corps, Air Force, or Coast Guard.

33 (ii) A civilian employee of any military branch specified in
34 clause (i), military base, or military deployment.

35 (iii) A contractor or agent of a private military or private security
36 company.

37 (iv) A member of the California National Guard.

38 (F) For purposes of this subdivision, “sexual assault” means an
39 offense included in Section 261, 262, 264.1, 286, 288a, or 289 of

1 the Penal Code, as of the date the act that added this paragraph
2 was enacted.

3 (c) (1) Notwithstanding Section 13955, no person who is
4 convicted of a violent felony listed in subdivision (c) of Section
5 667.5 of the Penal Code may be granted compensation until that
6 person has been discharged from probation or has been released
7 from a correctional institution and has been discharged from parole,
8 or has been discharged from postrelease community supervision
9 or mandatory supervision, if any, for that violent crime. In no case
10 shall compensation be granted to an applicant pursuant to this
11 chapter during any period of time the applicant is held in a
12 correctional institution, or while an applicant is required to register
13 as a sex offender pursuant to Section 290 of the Penal Code.

14 (2) A person who has been convicted of a violent felony listed
15 in subdivision (c) of Section 667.5 of the Penal Code may apply
16 for compensation pursuant to this chapter at any time, but the award
17 of that compensation may not be considered until the applicant
18 meets the requirements for compensation set forth in paragraph
19 (1).

20 SEC. 5. Section 13957 of the Government Code is amended
21 to read:

22 13957. (a) The board may grant for pecuniary loss, when the
23 board determines it will best aid the person seeking compensation,
24 as follows:

25 (1) Subject to the limitations set forth in Section 13957.2,
26 reimburse the amount of medical or medical-related expenses
27 incurred by the victim for services that were provided by a licensed
28 medical provider, including, but not limited to, eyeglasses, hearing
29 aids, dentures, or any prosthetic device taken, lost, or destroyed
30 during the commission of the crime, or the use of which became
31 necessary as a direct result of the crime.

32 (2) Subject to the limitations set forth in Section 13957.2,
33 reimburse the amount of outpatient psychiatric, psychological, or
34 other mental health counseling-related expenses incurred by the
35 victim or derivative victim, including peer counseling services
36 provided by a rape crisis center as defined by Section 13837 of
37 the Penal Code, and including family psychiatric, psychological,
38 or mental health counseling for the successful treatment of the
39 victim provided to family members of the victim in the presence
40 of the victim, whether or not the family member relationship

1 existed at the time of the crime, that became necessary as a direct
2 result of the crime, subject to the following conditions:

3 (A) The following persons may be reimbursed for the expense
4 of their outpatient mental health counseling in an amount not to
5 exceed ten thousand dollars (\$10,000):

6 (i) A victim.

7 (ii) A derivative victim who is the surviving parent, grandparent,
8 sibling, child, grandchild, spouse, fiancé, or fiancée of a victim of
9 a crime that directly resulted in the death of the victim.

10 (iii) A derivative victim, as described in paragraphs (1) to (4),
11 inclusive, of subdivision (c) of Section 13955, who is the primary
12 caretaker of a minor victim whose claim is not denied or reduced
13 pursuant to Section 13956 in a total amount not to exceed ten
14 thousand dollars (\$10,000) for not more than two derivative
15 victims.

16 (B) The following persons may be reimbursed for the expense
17 of their outpatient mental health counseling in an amount not to
18 exceed five thousand dollars (\$5,000):

19 (i) A derivative victim not eligible for reimbursement pursuant
20 to subparagraph (A), provided that mental health counseling of a
21 derivative victim described in paragraph (5) of subdivision (c) of
22 Section 13955, shall be reimbursed only if that counseling is
23 necessary for the treatment of the victim.

24 (ii) A minor who suffers emotional injury as a direct result of
25 witnessing a violent crime and who is not eligible for
26 reimbursement of the costs of outpatient mental health counseling
27 under any other provision of this chapter. To be eligible for
28 reimbursement under this clause, the minor must have been in
29 close proximity to the victim when he or she witnessed the crime.

30 (C) The board may reimburse a victim or derivative victim for
31 outpatient mental health counseling in excess of that authorized
32 by subparagraph (A) or (B) or for inpatient psychiatric,
33 psychological, or other mental health counseling if the claim is
34 based on dire or exceptional circumstances that require more
35 extensive treatment, as approved by the board.

36 (D) Expenses for psychiatric, psychological, or other mental
37 health counseling-related services may be reimbursed only if the
38 services were provided by either of the following individuals:

1 (i) A person who would have been authorized to provide those
2 services pursuant to former Article 1 (commencing with Section
3 13959) as it read on January 1, 2002.

4 (ii) A person who is licensed in California to provide those
5 services, or who is properly supervised by a person who is licensed
6 in California to provide those services, subject to the board's
7 approval and subject to the limitations and restrictions the board
8 may impose.

9 (3) Subject to the limitations set forth in Section 13957.5,
10 authorize compensation equal to the loss of income or loss of
11 support, or both, that a victim or derivative victim incurs as a direct
12 result of the victim's or derivative victim's injury or the victim's
13 death. If the victim or derivative victim requests that the board
14 give priority to reimbursement of loss of income or support, the
15 board may not pay medical expenses, or mental health counseling
16 expenses, except upon the request of the victim or derivative victim
17 or after determining that payment of these expenses will not
18 decrease the funds available for payment of loss of income or
19 support.

20 (4) Authorize a cash payment to or on behalf of the victim for
21 job retraining or similar employment-oriented services.

22 (5) Reimburse the expense of installing or increasing residential
23 security, not to exceed one thousand dollars (\$1,000). Installing
24 or increasing residential security may include, but need not be
25 limited to, both of the following:

26 (A) Home security device or system.

27 (B) Replacing or increasing the number of locks.

28 (6) Reimburse the expense of renovating or retrofitting a
29 victim's residence, or the expense of modifying or purchasing a
30 vehicle, to make the residence or the vehicle accessible or
31 operational by a victim upon verification that the expense is
32 medically necessary for a victim who is permanently disabled as
33 a direct result of the crime, whether the disability is partial or total.

34 (7) (A) Authorize a cash payment or reimbursement not to
35 exceed two thousand dollars (\$2,000) to a victim for expenses
36 incurred in relocating, if the expenses are determined by law
37 enforcement to be necessary for the personal safety of the victim
38 or by a mental health treatment provider to be necessary for the
39 emotional well-being of the victim.

1 (B) The cash payment or reimbursement made under this
2 paragraph shall only be awarded to one claimant per crime giving
3 rise to the relocation. The board may authorize more than one
4 relocation per crime if necessary for the personal safety or
5 emotional well-being of the claimant. However, the total cash
6 payment or reimbursement for all relocations due to the same crime
7 shall not exceed two thousand dollars (\$2,000). For purposes of
8 this paragraph a claimant is the crime victim, or, if the victim is
9 deceased, a person who resided with the deceased at the time of
10 the crime.

11 (C) The board may, under compelling circumstances, award a
12 second cash payment or reimbursement to a victim for another
13 crime if both of the following conditions are met:

14 (i) The crime occurs more than three years from the date of the
15 crime giving rise to the initial relocation cash payment or
16 reimbursement.

17 (ii) The crime does not involve the same offender.

18 (D) When a relocation payment or reimbursement is provided
19 to a victim of sexual assault or domestic violence and the identity
20 of the offender is known to the victim, the victim shall agree not
21 to inform the offender of the location of the victim's new residence
22 and not to allow the offender on the premises at any time, or shall
23 agree to seek a restraining order against the offender. A victim
24 may be required to repay the relocation payment or reimbursement
25 to the board if he or she violates the terms set forth in this
26 paragraph.

27 (E) Notwithstanding subparagraphs (A) and (B), the board may
28 increase the cash payment or reimbursement for expenses incurred
29 in relocating to an amount greater than two thousand dollars
30 (\$2,000), if the board finds this amount is appropriate due to the
31 unusual, dire, or exceptional circumstances of a particular claim.

32 (F) If a security deposit is required for relocation, the board
33 shall be named as the recipient and receive the funds upon
34 expiration of the victim's rental agreement.

35 (8) When a victim dies as a result of a crime, the board may
36 reimburse any individual who voluntarily, and without anticipation
37 of personal gain, pays or assumes the obligation to pay any of the
38 following expenses:

1 (A) The medical expenses incurred as a direct result of the crime
2 in an amount not to exceed the rates or limitations established by
3 the board.

4 (B) The funeral and burial expenses incurred as a direct result
5 of the crime, not to exceed seven thousand five hundred dollars
6 (\$7,500). *The board shall not create or comply with a regulation*
7 *or policy that mandates a lower maximum potential amount of an*
8 *award pursuant to this subparagraph for less than seven thousand*
9 *five hundred dollars (\$7,500).*

10 (9) When the crime occurs in a residence or inside a vehicle,
11 the board may reimburse any individual who voluntarily, and
12 without anticipation of personal gain, pays or assumes the
13 obligation to pay the reasonable costs to clean the scene of the
14 crime in an amount not to exceed one thousand dollars (\$1,000).
15 Services reimbursed pursuant to this subdivision shall be performed
16 by persons registered with the State Department of Public Health
17 as trauma scene waste practitioners in accordance with Chapter
18 9.5 (commencing with Section 118321) of Part 14 of Division 104
19 of the Health and Safety Code.

20 (10) When the crime is a violation of Section 600.2 or 600.5 of
21 the Penal Code, the board may reimburse the expense of veterinary
22 services, replacement costs, or other reasonable expenses, as
23 ordered by the court pursuant to Section 600.2 or 600.5 of the
24 Penal Code, in an amount not to exceed ten thousand dollars
25 (\$10,000).

26 (11) An award of compensation pursuant to paragraph (5) of
27 subdivision (f) of Section 13955 shall be limited to compensation
28 to provide mental health counseling and shall not limit the
29 eligibility of a victim for an award that he or she may be otherwise
30 entitled to receive under this part. A derivative victim shall not be
31 eligible for compensation under this provision.

32 (b) The total award to or on behalf of each victim or derivative
33 victim may not exceed thirty-five thousand dollars (\$35,000),
34 except that this award may be increased to an amount not exceeding
35 seventy thousand dollars (\$70,000) if federal funds for that increase
36 are available.

37 SEC. 6. Section 13957.5 of the Government Code is amended
38 to read:

1 13957.5. (a) In authorizing compensation for loss of income
2 and support pursuant to paragraph (3) of subdivision (a) of Section
3 13957, the board may take any of the following actions:

4 (1) Compensate the victim for loss of income directly resulting
5 from the injury, except that loss of income may not be paid by the
6 board for more than five years following the crime, unless the
7 victim is disabled as defined in Section 416(i) of Title 42 of the
8 United States Code, as a direct result of the injury.

9 (2) Compensate an adult derivative victim for loss of income,
10 subject to all of the following:

11 (A) The derivative victim is the parent or legal guardian of a
12 victim, who at the time of the crime was under the age of 18 years
13 and is hospitalized as a direct result of the crime.

14 (B) The minor victim's treating physician certifies in writing
15 that the presence of the victim's parent or legal guardian at the
16 hospital is necessary for the treatment of the victim.

17 (C) Reimbursement for loss of income under this paragraph
18 may not exceed the total value of the income that would have been
19 earned by the adult derivative victim during a 30-day period.

20 (3) Compensate an adult derivative victim for loss of income,
21 subject to all of the following:

22 (A) The derivative victim is the parent or legal guardian of a
23 victim who at the time of the crime was under the age of 18 years.

24 (B) The victim died as a direct result of the crime.

25 (C) The board shall pay for loss of income under this paragraph
26 for not more than 30 calendar days from the date of the victim's
27 death.

28 (4) Compensate a derivative victim who was legally dependent
29 on the victim at the time of the crime for the loss of support
30 incurred by that person as a direct result of the crime, subject to
31 both of the following:

32 (A) Loss of support shall be paid by the board for income lost
33 by an adult for a period up to, but not more than, five years
34 following the date of the crime.

35 (B) Loss of support shall not be paid by the board on behalf of
36 a minor for a period beyond the child's attaining the age of 18
37 years.

38 (b) The total amount payable to all derivative victims pursuant
39 to this section as the result of one crime may not exceed seventy
40 thousand dollars (\$70,000).

1 SEC. 7. Section 13957.7 of the Government Code is amended
2 to read:

3 13957.7. (a) No reimbursement may be made for any expense
4 that is submitted more than three years after it is incurred by the
5 victim or derivative victim. However, reimbursement may be made
6 for an expense submitted more than three years after the date it is
7 incurred if the victim or derivative victim has affirmed the debt
8 and is liable for the debt at the time the expense is submitted for
9 reimbursement, or has paid the expense as a direct result of a crime
10 for which a timely application has been filed or has paid the
11 expense as a direct result of a crime for which an application has
12 been filed and approved.

13 (b) Compensation made pursuant to this chapter may be on a
14 one-time or periodic basis. If periodic, the board may increase,
15 reduce, or terminate the amount of compensation according to the
16 applicant's need, subject to the maximum limits provided in this
17 chapter.

18 (c) (1) The board may authorize direct payment to a provider
19 of services that are reimbursable pursuant to this chapter and may
20 make those payments prior to verification. However, the board
21 may not, without good cause, authorize a direct payment to a
22 provider over the objection of the victim or derivative victim.

23 (2) Reimbursement on the initial claim for any psychological,
24 psychiatric, or mental health counseling services shall, if the
25 application has been approved, be paid by the board within 90
26 days of the date of receipt of the claim for payment, with
27 subsequent payments to be made to the provider within one month
28 of the receipt of a claim for payment.

29 (d) Payments for peer counseling services provided by a rape
30 crisis center may not exceed fifteen dollars (\$15) for each hour of
31 services provided. Those services shall be limited to in-person
32 counseling for a period not to exceed 10 weeks plus one series of
33 facilitated support group counseling sessions.

34 (e) The board shall develop procedures to ensure that a victim
35 is using compensation for job retraining or relocation only for its
36 intended purposes. The procedures may include, but need not be
37 limited to, requiring copies of receipts, agreements, or other
38 documents as requested, or developing a method for direct
39 payment.

1 (f) Compensation granted pursuant to this chapter shall not
2 disqualify an otherwise eligible applicant from participation in any
3 other public assistance program.

4 (g) The board shall pay attorney's fees representing the
5 reasonable value of legal services rendered to the applicant, in an
6 amount equal to 10 percent of the amount of the award, or five
7 hundred dollars (\$500), whichever is less, for each victim and each
8 derivative victim. The board may request that an attorney provide
9 verification of legal services provided to an applicant and the board
10 may contact an applicant to verify that legal services were provided.
11 An attorney receiving fees from another source may waive the
12 right to receive fees under this subdivision. Payments under this
13 subdivision shall be in addition to any amount authorized or
14 ordered under subdivision (b) of Section 13960. An attorney may
15 not charge, demand, receive, or collect any amount for services
16 rendered in connection with any proceedings under this chapter
17 except as awarded under this chapter.

18 (h) A private nonprofit agency shall be reimbursed for its
19 services at the level of the normal and customary fee charged by
20 the private nonprofit agency to clients with adequate means of
21 payment for its services, except that this reimbursement may not
22 exceed the maximum reimbursement rates set by the board and
23 may be made only to the extent that the victim otherwise qualifies
24 for compensation under this chapter and that other reimbursement
25 or direct subsidies are not available to serve the victim.

26 SEC. 8. Section 13957.9 of the Government Code is amended
27 to read:

28 13957.9. (a) In addition to the authorization provided in
29 Section 13957 and subject to the limitations set forth in Section
30 13957.2, the board may grant for pecuniary loss, when the board
31 determines it will best aid the person seeking compensation,
32 reimbursement of the amount of outpatient psychiatric,
33 psychological, or other mental health counseling-related expenses
34 incurred by the victim or derivative victim, including peer
35 counseling services provided by violence peer counseling services
36 provided by a service organization for victims of violent crime,
37 and including family psychiatric, psychological, or mental health
38 counseling for the successful treatment of the victim provided to
39 family members of the victim in the presence of the victim, whether
40 or not the family member relationship existed at the time of the

1 crime, that became necessary as a direct result of the crime, subject
2 to the following conditions:

3 (1) The following persons may be reimbursed for the expense
4 of their outpatient mental health counseling in an amount not to
5 exceed ten thousand dollars (\$10,000):

6 (A) A victim.

7 (B) A derivative victim who is the surviving parent, sibling,
8 child, spouse, fiancé, or fiancée of a victim of a crime that directly
9 resulted in the death of the victim.

10 (C) A derivative victim, as described in paragraphs (1) to (4),
11 inclusive, of subdivision (c) of Section 13955, who is the primary
12 caretaker of a minor victim whose claim is not denied or reduced
13 pursuant to Section 13956 in a total amount not to exceed ten
14 thousand dollars (\$10,000) for not more than two derivative
15 victims.

16 (2) The following persons may be reimbursed for the expense
17 of their outpatient mental health counseling in an amount not to
18 exceed five thousand dollars (\$5,000):

19 (A) A derivative victim not eligible for reimbursement pursuant
20 to paragraph (1), provided that mental health counseling of a
21 derivative victim described in paragraph (5) of subdivision (c) of
22 Section 13955, shall be reimbursed only if that counseling is
23 necessary for the treatment of the victim.

24 (B) A victim of a crime of unlawful sexual intercourse with a
25 minor committed in violation of subdivision (d) of Section 261.5
26 of the Penal Code. A derivative victim of a crime committed in
27 violation of subdivision (d) of Section 261.5 of the Penal Code
28 shall not be eligible for reimbursement of mental health counseling
29 expenses.

30 (C) A minor who suffers emotional injury as a direct result of
31 witnessing a violent crime and who is not eligible for
32 reimbursement of the costs of outpatient mental health counseling
33 under any other provision of this chapter. To be eligible for
34 reimbursement under this clause, the minor must have been in
35 close proximity to the victim when he or she witnessed the crime.

36 (3) The board may reimburse a victim or derivative victim for
37 outpatient mental health counseling in excess of that authorized
38 by paragraph (1) or (2) or for inpatient psychiatric, psychological,
39 or other mental health counseling if the claim is based on dire or

1 exceptional circumstances that require more extensive treatment,
2 as approved by the board.

3 (4) Expenses for psychiatric, psychological, or other mental
4 health counseling-related services may be reimbursed only if the
5 services were provided by either of the following individuals:

6 (A) A person who would have been authorized to provide those
7 services pursuant to former Article 1 (commencing with Section
8 13959) as it read on January 1, 2002.

9 (B) A person who is licensed by the state to provide those
10 services, or who is properly supervised by a person who is so
11 licensed, subject to the board's approval and subject to the
12 limitations and restrictions the board may impose.

13 (b) The total award to or on behalf of each victim or derivative
14 victim may not exceed thirty-five thousand dollars (\$35,000),
15 except that this amount may be increased to seventy thousand
16 dollars (\$70,000) if federal funds for that increase are available.

17 (c) For the purposes of this section, the following definitions
18 shall apply:

19 (1) "Service organization for victims of violent crime" means
20 a nonprofit and charitable organization that meets both of the
21 following criteria:

22 (A) Its primary mission is to provide services to victims of
23 violent crime.

24 (B) It provides programs or services to victims of violent crime
25 and their families, and other programs, whether or not a similar
26 program exists in an agency that provides additional services.

27 (2) "Violence peer counseling services" means counseling by
28 a violence peer counselor for the purpose of rendering advice or
29 assistance for victims of violent crime and their families. Any
30 violence peer counseling services that fall under the scope of
31 practice of the Licensed Marriage and Family Therapist Act
32 (Chapter 13 (commencing with Section 4980) of Division 2 of the
33 Business and Professions Code), the Educational Psychologist
34 Practice Act (Chapter 13.5 (commencing with Section 4989.10)
35 of Division 2 of the Business and Professions Code), the Clinical
36 Social Worker Practice Act (Chapter 14 (commencing with Section
37 4991) of Division 2 of the Business and Professions Code), and
38 the Licensed Professional Clinical Counselor Act (Chapter 16
39 (commencing with Section 4999.10) of Division 2 of the Business
40 and Professions Code), which are not performed in an exempt

1 setting as defined in Sections 4980.01, 4996.14, and 4999.22 of
2 the Business and Professions Code, shall only be performed by a
3 licensee or a registrant of the Board of Behavioral Sciences or
4 other appropriately licensed professional, such as a licensed
5 psychologist or board certified psychiatrist.

6 (3) “Violence peer counselor” means a provider of supportive
7 and *peer* nonpsychotherapeutic counseling services who is
8 employed by a service organization for victims of violent crime,
9 whether financially compensated or not, and who meets all of the
10 following requirements:

11 (A) Possesses at least six months of full-time equivalent
12 experience in providing peer support services acquired through
13 employment, volunteer work, or as part of an internship experience.

14 (B) Completed a training program aimed at preparing an
15 individual who was once a mental health services consumer to use
16 his or her life experience with mental health treatment, combined
17 with other strengths and skills, to promote the mental health
18 recovery of other mental health services consumers who are in
19 need of peer-based services relating to recovery as a victim of a
20 violent crime.

21 (C) Possesses 40 hours of training on all of the following:

22 (i) The profound neurological, biological, psychological, and
23 social effects of trauma and violence.

24 (ii) Peace-building and violence prevention strategies, including,
25 but not limited to, conflict mediation and retaliation prevention
26 related to gangs and gang-related violence.

27 (iii) Post-traumatic stress disorder and vicarious trauma,
28 especially as related to gangs and gang-related violence.

29 (iv) Case management practices, including, but not limited to,
30 ethics and victim compensation advocacy.

31 (D) When providing violence peer counseling services, is
32 supervised by a marriage and family therapist licensed pursuant
33 to Chapter 13 (commencing with Section 4980) of Division 2 of
34 the Business and Professions Code, a licensed educational
35 psychologist licensed pursuant to Chapter 13.5 (commencing with
36 Section 4989.10) of Division 2 of the Business and Professions
37 Code, a clinical social worker licensed pursuant to Chapter 14
38 (commencing with Section 4991) of Division 2 of the Business
39 and Professions Code, or a licensed professional clinical counselor
40 licensed pursuant to Chapter 16 (commencing with Section

1 4999.10) of Division 2 of the Business and Professions Code. For
2 the purposes of this subparagraph, a licensed marriage and family
3 therapist, licensed educational psychologist, licensed clinical social
4 worker, or licensed professional clinical counselor shall be
5 employed by the same service organization as the violence peer
6 counselor.

7 (d) This section shall remain in effect only until January 1, 2017,
8 and as of that date is repealed, unless a later enacted statute, that
9 is enacted before January 1, 2017, deletes or extends that date.

10 SEC. 9. Section 13959 of the Government Code is amended
11 to read:

12 13959. (a) The board shall grant a hearing to an applicant who
13 contests a staff recommendation to deny compensation in whole
14 or in part.

15 (b) The board shall notify the applicant not less than 10 days
16 prior to the date of the hearing. Notwithstanding Section 11123,
17 if the application that the board is considering involves either a
18 crime against a minor, a crime of sexual assault, or a crime of
19 domestic violence, the board may exclude from the hearing all
20 persons other than board members and members of its staff, the
21 applicant for benefits, a minor applicant's parents or guardians,
22 the applicant's representative, witnesses, and other persons of the
23 applicant's choice to provide assistance to the applicant during the
24 hearing. However, the board shall not exclude persons from the
25 hearing if the applicant or applicant's representative requests that
26 the hearing be open to the public.

27 (c) At the hearing, the person seeking compensation shall have
28 the burden of establishing, by a preponderance of the evidence,
29 the elements for eligibility under Section 13955.

30 (d) Except as otherwise provided by law, in making
31 determinations of eligibility for compensation and in deciding
32 upon the amount of compensation, the board shall apply the law
33 in effect as of the date an application was submitted.

34 (e) (1) The hearing shall be informal and need not be conducted
35 according to the technical rules relating to evidence and witnesses.
36 The board may rely on any relevant evidence if it is the sort of
37 evidence on which responsible persons are accustomed to rely in
38 the conduct of serious affairs, regardless of the existence of a
39 common law or statutory rule that might make improper the
40 admission of the evidence over objection in a civil action. The

1 board may rely on written reports prepared for the board, or other
2 information received, from public agencies responsible for
3 investigating the crime. If the applicant or the applicant's
4 representative chooses not to appear at the hearing, the board may
5 act solely upon the application for compensation, the staff's report,
6 and other evidence that appears in the record.

7 (2) *The board shall allow a service animal to accompany and*
8 *support a witness while testifying at a hearing.*

9 (f) Hearings shall be held in various locations with the frequency
10 necessary to provide for the speedy adjudication of the applications.
11 If the applicant's presence is required at the hearing, the board
12 shall schedule the applicant's hearing in as convenient a location
13 as possible or conduct the hearing by telephone.

14 (g) The board may delegate the hearing of applications to
15 hearing officers.

16 (h) The decisions of the board shall be in writing. Copies of the
17 decisions shall be delivered to the applicant or to his or her
18 representative personally or sent to him or her by mail.

19 (i) The board may order a reconsideration of all or part of a
20 decision on written request of the applicant. The board shall not
21 grant more than one request for reconsideration with respect to
22 any one decision on an application for compensation. The board
23 shall not consider any request for reconsideration filed with the
24 board more than 30 calendar days after the personal delivery or
25 60 calendar days after the mailing of the original decision.

26 (j) The board may order a reconsideration of all or part of a
27 decision on its own motion, at its discretion, at any time.

28 (k) Evidence submitted after the board has denied a request for
29 reconsideration shall not be considered unless the board chooses
30 to reconsider its decision on its own motion.

31 SEC. 10. Section 13963 of the Government Code is amended
32 to read:

33 13963. (a) The board shall be subrogated to the rights of the
34 recipient to the extent of any compensation granted by the board.
35 The subrogation rights shall be against the perpetrator of the crime
36 or any person liable for the losses suffered as a direct result of the
37 crime which was the basis for receipt of compensation, including
38 an insurer held liable in accordance with the provision of a policy
39 of insurance issued pursuant to Section 11580.2 of the Insurance
40 Code.

1 (b) The board shall also be entitled to a lien on any judgment,
2 award, or settlement in favor of or on behalf of the recipient for
3 losses suffered as a direct result of the crime that was the basis for
4 receipt of compensation in the amount of the compensation granted
5 by the board. The board may recover this amount in a separate
6 action, or may intervene in an action brought by or on behalf of
7 the recipient. If a claim is filed within one year of the date of
8 recovery, the board shall pay 25 percent of the amount of the
9 recovery that is subject to a lien on the judgment, award, or
10 settlement, to the recipient responsible for recovery if the recipient
11 notified the board of the action prior to receiving any recovery.
12 The remaining amount, and any amount not claimed within one
13 year pursuant to this section, shall be deposited in the Restitution
14 Fund.

15 (c) The board may compromise or settle and release any lien
16 pursuant to this chapter if it is found that the action is in the best
17 interest of the state or the collection would cause undue hardship
18 upon the recipient. Repayment obligations to the Restitution Fund
19 shall be enforceable as a summary judgment.

20 (d) No judgment, award, or settlement in any action or claim
21 by a recipient, where the board has an interest, shall be satisfied
22 without first giving the board notice and a reasonable opportunity
23 to perfect and satisfy the lien. The notice shall be given to the
24 board in Sacramento except in cases where the board specifies that
25 the notice shall be given otherwise. The notice shall include the
26 complete terms of the award, settlement, or judgment, and the
27 name and address of any insurer directly or indirectly providing
28 for the satisfaction.

29 (e) (1) If the recipient brings an action or asserts a claim for
30 damages against the person or persons liable for the injury or death
31 giving rise to an award by the board under this chapter, notice of
32 the institution of legal proceedings, notice of all hearings,
33 conferences, and proceedings, and notice of settlement shall be
34 given to the board in Sacramento except in cases where the board
35 specifies that notice shall be given to the Attorney General. Notice
36 of the institution of legal proceedings shall be given to the board
37 within 30 days of filing the action. All notices shall be given by
38 the attorney employed to bring the action for damages or by the
39 recipient if no attorney is employed.

40 (2) Notice shall include all of the following:

1 (A) Names of all parties to the claim or action.

2 (B) The address of all parties to the claim or action except for
3 those persons represented by attorneys and in that case the name
4 of the party and the name and address of the attorney.

5 (C) The nature of the claim asserted or action brought.

6 (D) In the case of actions before courts or administrative
7 agencies, the full title of the case including the identity of the court
8 or agency, the names of the parties, and the case or docket number.

9 (3) When the recipient or his or her attorney has reason to
10 believe that a person from whom damages are sought is receiving
11 a defense provided in whole or in part by an insurer, or is insured
12 for the injury caused to the recipient, notice shall include a
13 statement of that fact and the name and address of the insurer.
14 Upon request of the board, a person obligated to provide notice
15 shall provide the board with a copy of the current written claim or
16 complaint.

17 (f) The board shall pay the county probation department or other
18 county agency responsible for collection of funds owed to the
19 Restitution Fund under Section 13967, as operative on or before
20 September 28, 1994, Section 1202.4 of the Penal Code, Section
21 1203.04 of the Penal Code, as operative on or before August 2,
22 1995, or Section 730.6 of the Welfare and Institutions Code, 10
23 percent of the funds so owed and collected by the county agency
24 and deposited in the Restitution Fund. This payment shall be made
25 only when the funds are deposited in the Restitution Fund within
26 45 days of the end of the month in which the funds are collected.
27 Receiving 10 percent of the moneys collected as being owed to
28 the Restitution Fund shall be considered an incentive for collection
29 efforts and shall be used for furthering these collection efforts.
30 The 10-percent rebates shall be used to augment the budgets for
31 the county agencies responsible for collection of funds owed to
32 the Restitution Fund, as provided in Section 13967, as operative
33 on or before September 28, 1994, Section 1202.4 of the Penal
34 Code, Section 1203.04 of the Penal Code, operative on or before
35 August 2, 1995, or Section 730.6 of the Welfare and Institutions
36 Code. The 10-percent rebates shall not be used to supplant county
37 funding.

38 (g) In the event of judgment or award in a suit or claim against
39 a third party or insurer, if the action or claim is prosecuted by the
40 recipient alone, the court or agency shall first order paid from any

1 judgment or award the reasonable litigation expenses incurred in
2 preparation and prosecution of the action or claim, together with
3 reasonable attorney's fees when an attorney has been retained.
4 After payment of the expenses and attorney's fees, the court or
5 agency shall, on the application of the board, allow as a lien against
6 the amount of the judgment or award, the amount of the
7 compensation granted by the board to the recipient for losses
8 sustained as a result of the same incident upon which the
9 settlement, award, or judgment is based.

10 (h) For purposes of this section, "recipient" means any person
11 who has received compensation or will be provided compensation
12 pursuant to this chapter, including the victim's guardian,
13 conservator or other personal representative, estate, and survivors.

14 (i) In accordance with subparagraph (B) of paragraph (4) of
15 subdivision (f) of Section 1202.4 of the Penal Code, a
16 representative of the board may provide the probation department,
17 district attorney, and court with information relevant to the board's
18 losses prior to the imposition of a sentence.

19 SEC. 11. Section 13965 of the Government Code is amended
20 to read:

21 13965. (a) Any recipient of an overpayment pursuant to this
22 chapter is liable to repay the board that amount unless both of the
23 following facts exist:

24 (1) The overpayment was not due to fraud, misrepresentation,
25 or willful nondisclosure on the part of the recipient.

26 (2) The overpayment was received without fault on the part of
27 the recipient, and its recovery would be against equity and good
28 conscience.

29 (b) All actions to collect overpayments shall commence within
30 seven years from the date of the overpayment. However, an action
31 to collect an overpayment due to fraud, misrepresentation, or
32 willful nondisclosure by the recipient may be commenced at any
33 time.

34 (c) Any recipient of an overpayment is authorized to contest
35 the staff recommendation of an overpayment pursuant to the
36 hearing procedures in Section 13959. If a final determination is
37 made by the board that an overpayment exists, the board may
38 collect the overpayment in any manner prescribed by law.

39 (d) All overpayments exceeding two thousand dollars (\$2,000)
40 shall be reported to the Legislature pursuant to Section 13928 and

1 the relief from liability described in subdivision (a) shall be subject
2 to legislative approval.

3 SEC. 12. Section 13971 of the Government Code is amended
4 to read:

5 13971. As used in this article, “private citizen” means any
6 person other than a peace officer, fireman, lifeguard, or person
7 whose employment includes the duty to protect the public safety
8 acting within the course and scope of such employment.

9 SEC. 13. Section 13972 of the Government Code is amended
10 to read:

11 13972. (a) If a private citizen incurs personal injury or death
12 or damage to his or her property in preventing the commission of
13 a crime against the person or property of another, in apprehending
14 a criminal, or in materially assisting a peace officer in prevention
15 of a crime or apprehension of a criminal, or rescuing a person in
16 immediate danger of injury or death as a result of fire, drowning,
17 or other catastrophe, the private citizen, his or her surviving spouse,
18 his or her surviving children, a person dependent upon the citizen
19 for his or her principal support, any person legally liable for the
20 citizen’s pecuniary losses, or a public safety or law enforcement
21 agency acting on behalf of any of the above may file a claim with
22 the California Victim Compensation and Government Claims
23 Board for indemnification to the extent that the claimant is not
24 compensated from any other source for the injury, death, or
25 damage. The claim shall generally show all of the following:

26 (1) The date, place, and other circumstances of the occurrence
27 or events that gave rise to the claim.

28 (2) A general description of the activities of the private citizen
29 in prevention of a crime, apprehension of a criminal, or rescuing
30 a person in immediate danger of injury or death as a result of fire,
31 drowning, or other catastrophe.

32 (3) The amount or estimated amount of the injury, death, or
33 damage sustained for which the claimant is not compensated from
34 any other source, insofar as it may be known at the time of the
35 presentation of the claim.

36 (4) Any other information that the California Victim
37 Compensation and Government Claims Board may require.

38 (b) A claim filed under subdivision (a) shall be accompanied
39 by a corroborating statement and recommendation from the
40 appropriate state or local public safety or law enforcement agency.

1 SEC. 14. Section 13973 of the Government Code is amended
2 to read:

3 13973. (a) Upon presentation of a claim pursuant to this
4 chapter, the California Victim Compensation and Government
5 Claims Board shall fix a time and place for the hearing of the claim,
6 and shall mail notices of the hearing to interested persons or
7 agencies. The board shall receive recommendations from public
8 safety or law enforcement agencies, and evidence showing all of
9 the following:

10 (1) The nature of the crime committed by the apprehended
11 criminal or prevented by the action of the private citizen, or the
12 nature of the action of the private citizen in rescuing a person in
13 immediate danger of injury or death as a result of fire, drowning,
14 or other catastrophe, and the circumstances involved.

15 (2) That the actions of the private citizen substantially and
16 materially contributed to the apprehension of a criminal, the
17 prevention of a crime, or the rescuing of a person in immediate
18 danger of injury or death as a result of fire, drowning, or other
19 catastrophe.

20 (3) That, as a direct consequence, the private citizen incurred
21 personal injury or damage to property or died.

22 (4) The extent of the injury or damage for which the claimant
23 is not compensated from any other source.

24 (5) Any other evidence that the board may require.

25 (b) If the board determines, on the basis of a preponderance of
26 the evidence, that the state should indemnify the claimant for the
27 injury, death, or damage sustained, it shall approve the claim for
28 payment. In no event shall a claim be approved by the board under
29 this article in excess of ten thousand dollars (\$10,000).

30 (c) In addition to any award made under this chapter, the board
31 may award, as attorney's fees, an amount representing the
32 reasonable value of legal services rendered a claimant, but in no
33 event to exceed 10 percent of the amount of the award. No attorney
34 shall charge, demand, receive, or collect for services rendered in
35 connection with any proceedings under this chapter any amount
36 other than that awarded as attorney's fees under this section. Claims
37 approved under this chapter shall be paid from a separate
38 appropriation made to the California Victim Compensation and
39 Government Claims Board in the Budget Act and as the claims
40 are approved by the board.

1 *SEC. 15. Section 1202.4 of the Penal Code is amended to read:*

2 1202.4. (a) (1) It is the intent of the Legislature that a victim
3 of crime who incurs an economic loss as a result of the commission
4 of a crime shall receive restitution directly from a defendant
5 convicted of that crime.

6 (2) Upon a person being convicted of a crime in the State of
7 California, the court shall order the defendant to pay a fine in the
8 form of a penalty assessment in accordance with Section 1464.

9 (3) The court, in addition to any other penalty provided or
10 imposed under the law, shall order the defendant to pay both of
11 the following:

12 (A) A restitution fine in accordance with subdivision (b).

13 (B) Restitution to the victim or victims, if any, in accordance
14 with subdivision (f), which shall be enforceable as if the order
15 were a civil judgment.

16 (b) In every case where a person is convicted of a crime, the
17 court shall impose a separate and additional restitution fine, unless
18 it finds compelling and extraordinary reasons for not doing so and
19 states those reasons on the record.

20 (1) The restitution fine shall be set at the discretion of the court
21 and commensurate with the seriousness of the offense. If the person
22 is convicted of a felony, the fine shall not be less than two hundred
23 forty dollars (\$240) starting on January 1, 2012, two hundred eighty
24 dollars (\$280) starting on January 1, 2013, and three hundred
25 dollars (\$300) starting on January 1, 2014, and not more than ten
26 thousand dollars (\$10,000). If the person is convicted of a
27 misdemeanor, the fine shall not be less than one hundred twenty
28 dollars (\$120) starting on January 1, 2012, one hundred forty
29 dollars (\$140) starting on January 1, 2013, and one hundred fifty
30 dollars (\$150) starting on January 1, 2014, and not more than one
31 thousand dollars (\$1,000).

32 (2) In setting a felony restitution fine, the court may determine
33 the amount of the fine as the product of the minimum fine pursuant
34 to paragraph (1) multiplied by the number of years of imprisonment
35 the defendant is ordered to serve, multiplied by the number of
36 felony counts of which the defendant is convicted.

37 (c) The court shall impose the restitution fine unless it finds
38 compelling and extraordinary reasons for not doing so and states
39 those reasons on the record. A defendant's inability to pay shall
40 not be considered a compelling and extraordinary reason not to

1 impose a restitution fine. Inability to pay may be considered only
2 in increasing the amount of the restitution fine in excess of the
3 minimum fine pursuant to paragraph (1) of subdivision (b). The
4 court may specify that funds confiscated at the time of the
5 defendant's arrest, except for funds confiscated pursuant to Section
6 11469 of the Health and Safety Code, be applied to the restitution
7 fine if the funds are not exempt for spousal or child support or
8 subject to any other legal exemption.

9 (d) In setting the amount of the fine pursuant to subdivision (b)
10 in excess of the minimum fine pursuant to paragraph (1) of
11 subdivision (b), the court shall consider any relevant factors,
12 including, but not limited to, the defendant's inability to pay, the
13 seriousness and gravity of the offense and the circumstances of its
14 commission, any economic gain derived by the defendant as a
15 result of the crime, the extent to which any other person suffered
16 losses as a result of the crime, and the number of victims involved
17 in the crime. Those losses may include pecuniary losses to the
18 victim or his or her dependents as well as intangible losses, such
19 as psychological harm caused by the crime. Consideration of a
20 defendant's inability to pay may include his or her future earning
21 capacity. A defendant shall bear the burden of demonstrating his
22 or her inability to pay. Express findings by the court as to the
23 factors bearing on the amount of the fine shall not be required. A
24 separate hearing for the fine shall not be required.

25 (e) The restitution fine shall not be subject to penalty
26 assessments authorized in Section 1464 or Chapter 12
27 (commencing with Section 76000) of Title 8 of the Government
28 Code, or the state surcharge authorized in Section 1465.7, and
29 shall be deposited in the Restitution Fund in the State Treasury.

30 (f) Except as provided in subdivisions (q) and (r), in every case
31 in which a victim has suffered economic loss as a result of the
32 defendant's conduct, the court shall require that the defendant
33 make restitution to the victim or victims in an amount established
34 by court order, based on the amount of loss claimed by the victim
35 or victims or any other showing to the court. If the amount of loss
36 cannot be ascertained at the time of sentencing, the restitution
37 order shall include a provision that the amount shall be determined
38 at the direction of the court. The court shall order full restitution
39 unless it finds compelling and extraordinary reasons for not doing
40 so and states them on the record. The court may specify that funds

1 confiscated at the time of the defendant's arrest, except for funds
2 confiscated pursuant to Section 11469 of the Health and Safety
3 Code, be applied to the restitution order if the funds are not exempt
4 for spousal or child support or subject to any other legal exemption.

5 (1) The defendant has the right to a hearing before a judge to
6 dispute the determination of the amount of restitution. The court
7 may modify the amount, on its own motion or on the motion of
8 the district attorney, the victim or victims, or the defendant. If a
9 motion is made for modification of a restitution order, the victim
10 shall be notified of that motion at least 10 days prior to the
11 proceeding held to decide the motion. *A victim at a restitution*
12 *hearing or modification hearing described in this paragraph may*
13 *testify by live, two-way audio and video transmission, if testimony*
14 *by live, two-way audio and video transmission is available at the*
15 *court.*

16 (2) Determination of the amount of restitution ordered pursuant
17 to this subdivision shall not be affected by the indemnification or
18 subrogation rights of a third party. Restitution ordered pursuant to
19 this subdivision shall be ordered to be deposited to the Restitution
20 Fund to the extent that the victim, as defined in subdivision (k),
21 has received assistance from the California Victim Compensation
22 and Government Claims Board pursuant to Chapter 5 (commencing
23 with Section 13950) of Part 4 of Division 3 of Title 2 of the
24 Government Code.

25 (3) To the extent possible, the restitution order shall be prepared
26 by the sentencing court, shall identify each victim and each loss
27 to which it pertains, and shall be of a dollar amount that is sufficient
28 to fully reimburse the victim or victims for every determined
29 economic loss incurred as the result of the defendant's criminal
30 conduct, including, but not limited to, all of the following:

31 (A) Full or partial payment for the value of stolen or damaged
32 property. The value of stolen or damaged property shall be the
33 replacement cost of like property, or the actual cost of repairing
34 the property when repair is possible.

35 (B) Medical expenses.

36 (C) Mental health counseling expenses.

37 (D) Wages or profits lost due to injury incurred by the victim,
38 and if the victim is a minor, wages or profits lost by the minor's
39 parent, parents, guardian, or guardians, while caring for the injured
40 minor. Lost wages shall include commission income as well as

1 base wages. Commission income shall be established by evidence
2 of commission income during the 12-month period prior to the
3 date of the crime for which restitution is being ordered, unless
4 good cause for a shorter time period is shown.

5 (E) Wages or profits lost by the victim, and if the victim is a
6 minor, wages or profits lost by the minor's parent, parents,
7 guardian, or guardians, due to time spent as a witness or in assisting
8 the police or prosecution. Lost wages shall include commission
9 income as well as base wages. Commission income shall be
10 established by evidence of commission income during the
11 12-month period prior to the date of the crime for which restitution
12 is being ordered, unless good cause for a shorter time period is
13 shown.

14 (F) Noneconomic losses, including, but not limited to,
15 psychological harm, for felony violations of Section 288.

16 (G) Interest, at the rate of 10 percent per annum, that accrues
17 as of the date of sentencing or loss, as determined by the court.

18 (H) Actual and reasonable attorney's fees and other costs of
19 collection accrued by a private entity on behalf of the victim.

20 (I) Expenses incurred by an adult victim in relocating away
21 from the defendant, including, but not limited to, deposits for
22 utilities and telephone service, deposits for rental housing,
23 temporary lodging and food expenses, clothing, and personal items.
24 Expenses incurred pursuant to this section shall be verified by law
25 enforcement to be necessary for the personal safety of the victim
26 or by a mental health treatment provider to be necessary for the
27 emotional well-being of the victim.

28 (J) Expenses to install or increase residential security incurred
29 related to a violent felony, as defined in subdivision (c) of Section
30 667.5, including, but not limited to, a home security device or
31 system, or replacing or increasing the number of locks.

32 (K) Expenses to retrofit a residence or vehicle, or both, to make
33 the residence accessible to or the vehicle operational by the victim,
34 if the victim is permanently disabled, whether the disability is
35 partial or total, as a direct result of the crime.

36 (L) Expenses for a period of time reasonably necessary to make
37 the victim whole, for the costs to monitor the credit report of, and
38 for the costs to repair the credit of, a victim of identity theft, as
39 defined in Section 530.5.

1 (4) (A) If, as a result of the defendant's conduct, the Restitution
2 Fund has provided assistance to or on behalf of a victim or
3 derivative victim pursuant to Chapter 5 (commencing with Section
4 13950) of Part 4 of Division 3 of Title 2 of the Government Code,
5 the amount of assistance provided shall be presumed to be a direct
6 result of the defendant's criminal conduct and shall be included
7 in the amount of the restitution ordered.

8 (B) The amount of assistance provided by the Restitution Fund
9 shall be established by copies of bills submitted to the California
10 Victim Compensation and Government Claims Board reflecting
11 the amount paid by the board and whether the services for which
12 payment was made were for medical or dental expenses, funeral
13 or burial expenses, mental health counseling, wage or support
14 losses, or rehabilitation. Certified copies of these bills provided
15 by the board and redacted to protect the privacy and safety of the
16 victim or any legal privilege, together with a statement made under
17 penalty of perjury by the custodian of records that those bills were
18 submitted to and were paid by the board, shall be sufficient to meet
19 this requirement.

20 (C) If the defendant offers evidence to rebut the presumption
21 established by this paragraph, the court may release additional
22 information contained in the records of the board to the defendant
23 only after reviewing that information in camera and finding that
24 the information is necessary for the defendant to dispute the amount
25 of the restitution order.

26 (5) Except as provided in paragraph (6), in any case in which
27 an order may be entered pursuant to this subdivision, the defendant
28 shall prepare and file a disclosure identifying all assets, income,
29 and liabilities in which the defendant held or controlled a present
30 or future interest as of the date of the defendant's arrest for the
31 crime for which restitution may be ordered. The financial disclosure
32 statements shall be made available to the victim and the board
33 pursuant to Section 1214. The disclosure shall be signed by the
34 defendant upon a form approved or adopted by the Judicial Council
35 for the purpose of facilitating the disclosure. A defendant who
36 willfully states as true a material matter that he or she knows to
37 be false on the disclosure required by this subdivision is guilty of
38 a misdemeanor, unless this conduct is punishable as perjury or
39 another provision of law provides for a greater penalty.

1 (6) A defendant who fails to file the financial disclosure required
2 in paragraph (5), but who has filed a financial affidavit or financial
3 information pursuant to subdivision (c) of Section 987, shall be
4 deemed to have waived the confidentiality of that affidavit or
5 financial information as to a victim in whose favor the order of
6 restitution is entered pursuant to subdivision (f). The affidavit or
7 information shall serve in lieu of the financial disclosure required
8 in paragraph (5), and paragraphs (7) to (10), inclusive, shall not
9 apply.

10 (7) Except as provided in paragraph (6), the defendant shall file
11 the disclosure with the clerk of the court no later than the date set
12 for the defendant's sentencing, unless otherwise directed by the
13 court. The disclosure may be inspected or copied as provided by
14 subdivision (b), (c), or (d) of Section 1203.05.

15 (8) In its discretion, the court may relieve the defendant of the
16 duty under paragraph (7) of filing with the clerk by requiring that
17 the defendant's disclosure be submitted as an attachment to, and
18 be available to, those authorized to receive the following:

19 (A) A report submitted pursuant to subparagraph (C) of
20 paragraph (2) of subdivision (b) of Section 1203 or subdivision
21 (g) of Section 1203.

22 (B) A stipulation submitted pursuant to paragraph (4) of
23 subdivision (b) of Section 1203.

24 (C) A report by the probation officer, or information submitted
25 by the defendant applying for a conditional sentence pursuant to
26 subdivision (d) of Section 1203.

27 (9) The court may consider a defendant's unreasonable failure
28 to make a complete disclosure pursuant to paragraph (5) as any of
29 the following:

30 (A) A circumstance in aggravation of the crime in imposing a
31 term under subdivision (b) of Section 1170.

32 (B) A factor indicating that the interests of justice would not be
33 served by admitting the defendant to probation under Section 1203.

34 (C) A factor indicating that the interests of justice would not be
35 served by conditionally sentencing the defendant under Section
36 1203.

37 (D) A factor indicating that the interests of justice would not
38 be served by imposing less than the maximum fine and sentence
39 fixed by law for the case.

1 (10) A defendant's failure or refusal to make the required
2 disclosure pursuant to paragraph (5) shall not delay entry of an
3 order of restitution or pronouncement of sentence. In appropriate
4 cases, the court may do any of the following:

5 (A) Require the defendant to be examined by the district attorney
6 pursuant to subdivision (h).

7 (B) If sentencing the defendant under Section 1170, provide
8 that the victim shall receive a copy of the portion of the probation
9 report filed pursuant to Section 1203.10 concerning the defendant's
10 employment, occupation, finances, and liabilities.

11 (C) If sentencing the defendant under Section 1203, set a date
12 and place for submission of the disclosure required by paragraph
13 (5) as a condition of probation or suspended sentence.

14 (11) If a defendant has any remaining unpaid balance on a
15 restitution order or fine 120 days prior to his or her scheduled
16 release from probation or 120 days prior to his or her completion
17 of a conditional sentence, the defendant shall prepare and file a
18 new and updated financial disclosure identifying all assets, income,
19 and liabilities in which the defendant holds or controls or has held
20 or controlled a present or future interest during the defendant's
21 period of probation or conditional sentence. The financial
22 disclosure shall be made available to the victim and the board
23 pursuant to Section 1214. The disclosure shall be signed and
24 prepared by the defendant on the same form as described in
25 paragraph (5). A defendant who willfully states as true a material
26 matter that he or she knows to be false on the disclosure required
27 by this subdivision is guilty of a misdemeanor, unless this conduct
28 is punishable as perjury or another provision of law provides for
29 a greater penalty. The financial disclosure required by this
30 paragraph shall be filed with the clerk of the court no later than
31 90 days prior to the defendant's scheduled release from probation
32 or completion of the defendant's conditional sentence.

33 (12) In cases where an employer is convicted of a crime against
34 an employee, a payment to the employee or the employee's
35 dependent that is made by the employer's workers' compensation
36 insurance carrier shall not be used to offset the amount of the
37 restitution order unless the court finds that the defendant
38 substantially met the obligation to pay premiums for that insurance
39 coverage.

1 (g) The court shall order full restitution unless it finds
2 compelling and extraordinary reasons for not doing so and states
3 those reasons on the record. A defendant's inability to pay shall
4 not be considered a compelling and extraordinary reason not to
5 impose a restitution order, nor shall inability to pay be a
6 consideration in determining the amount of a restitution order.

7 (h) The district attorney may request an order of examination
8 pursuant to the procedures specified in Article 2 (commencing
9 with Section 708.110) of Chapter 6 of Division 2 of Title 9 of Part
10 2 of the Code of Civil Procedure, in order to determine the
11 defendant's financial assets for purposes of collecting on the
12 restitution order.

13 (i) A restitution order imposed pursuant to subdivision (f) shall
14 be enforceable as if the order were a civil judgment.

15 (j) The making of a restitution order pursuant to subdivision (f)
16 shall not affect the right of a victim to recovery from the Restitution
17 Fund as otherwise provided by law, except to the extent that
18 restitution is actually collected pursuant to the order. Restitution
19 collected pursuant to this subdivision shall be credited to any other
20 judgments for the same losses obtained against the defendant
21 arising out of the crime for which the defendant was convicted.

22 (k) For purposes of this section, "victim" shall include all of
23 the following:

24 (1) The immediate surviving family of the actual victim.

25 (2) A corporation, business trust, estate, trust, partnership,
26 association, joint venture, government, governmental subdivision,
27 agency, or instrumentality, or any other legal or commercial entity
28 when that entity is a direct victim of a crime.

29 (3) A person who has sustained economic loss as the result of
30 a crime and who satisfies any of the following conditions:

31 (A) At the time of the crime was the parent, grandparent, sibling,
32 spouse, child, or grandchild of the victim.

33 (B) At the time of the crime was living in the household of the
34 victim.

35 (C) At the time of the crime was a person who had previously
36 lived in the household of the victim for a period of not less than
37 two years in a relationship substantially similar to a relationship
38 listed in subparagraph (A).

1 (D) Is another family member of the victim, including, but not
2 limited to, the victim's fiancé or fiancée, and who witnessed the
3 crime.

4 (E) Is the primary caretaker of a minor victim.

5 (4) A person who is eligible to receive assistance from the
6 Restitution Fund pursuant to Chapter 5 (commencing with Section
7 13950) of Part 4 of Division 3 of Title 2 of the Government Code.

8 (5) A governmental entity that is responsible for repairing,
9 replacing, or restoring public or privately owned property that has
10 been defaced with graffiti or other inscribed material, as defined
11 in subdivision (e) of Section 594, and that has sustained an
12 economic loss as the result of a violation of Section 594, 594.3,
13 594.4, 640.5, 640.6, or ~~640.7 of the Penal Code.~~ 640.7.

14 (l) At its discretion, the board of supervisors of a county may
15 impose a fee to cover the actual administrative cost of collecting
16 the restitution fine, not to exceed 10 percent of the amount ordered
17 to be paid, to be added to the restitution fine and included in the
18 order of the court, the proceeds of which shall be deposited in the
19 general fund of the county.

20 (m) In every case in which the defendant is granted probation,
21 the court shall make the payment of restitution fines and orders
22 imposed pursuant to this section a condition of probation. Any
23 portion of a restitution order that remains unsatisfied after a
24 defendant is no longer on probation shall continue to be enforceable
25 by a victim pursuant to Section 1214 until the obligation is
26 satisfied.

27 (n) If the court finds and states on the record compelling and
28 extraordinary reasons why a restitution fine or full restitution order
29 should not be required, the court shall order, as a condition of
30 probation, that the defendant perform specified community service,
31 unless it finds and states on the record compelling and
32 extraordinary reasons not to require community service in addition
33 to the finding that restitution should not be required. Upon
34 revocation of probation, the court shall impose restitution pursuant
35 to this section.

36 (o) The provisions of Section 13963 of the Government Code
37 shall apply to restitution imposed pursuant to this section.

38 (p) The court clerk shall notify the California Victim
39 Compensation and Government Claims Board within 90 days of
40 an order of restitution being imposed if the defendant is ordered

1 to pay restitution to the board due to the victim receiving
2 compensation from the Restitution Fund. Notification shall be
3 accomplished by mailing a copy of the court order to the board,
4 which may be done periodically by bulk mail or email.

5 (q) Upon conviction for a violation of Section 236.1, the court
6 shall, in addition to any other penalty or restitution, order the
7 defendant to pay restitution to the victim in a case in which a victim
8 has suffered economic loss as a result of the defendant's conduct.
9 The court shall require that the defendant make restitution to the
10 victim or victims in an amount established by court order, based
11 on the amount of loss claimed by the victim or victims or another
12 showing to the court. In determining restitution pursuant to this
13 section, the court shall base its order upon the greater of the
14 following: the gross value of the victim's labor or services based
15 upon the comparable value of similar services in the labor market
16 in which the offense occurred, or the value of the victim's labor
17 as guaranteed under California law, or the actual income derived
18 by the defendant from the victim's labor or services or any other
19 appropriate means to provide reparations to the victim.

20 (r) (1) In addition to any other penalty or fine, the court shall
21 order a person who has been convicted of a violation of Section
22 350, 653h, 653s, 653u, 653w, or 653aa that involves a recording
23 or audiovisual work to make restitution to an owner or lawful
24 producer, or trade association acting on behalf of the owner or
25 lawful producer, of a phonograph record, disc, wire, tape, film, or
26 other device or article from which sounds or visual images are
27 derived that suffered economic loss resulting from the violation.
28 The order of restitution shall be based on the aggregate wholesale
29 value of lawfully manufactured and authorized devices or articles
30 from which sounds or visual images are devised corresponding to
31 the number of nonconforming devices or articles involved in the
32 offense, unless a higher value can be proved in the case of (A) an
33 unreleased audio work, or (B) an audiovisual work that, at the time
34 of unauthorized distribution, has not been made available in copies
35 for sale to the general public in the United States on a digital
36 versatile disc. For purposes of this subdivision, possession of
37 nonconforming devices or articles intended for sale constitutes
38 actual economic loss to an owner or lawful producer in the form
39 of displaced legitimate wholesale purchases. The order of
40 restitution shall also include reasonable costs incurred as a result

1 of an investigation of the violation undertaken by the owner, lawful
2 producer, or trade association acting on behalf of the owner or
3 lawful producer. “Aggregate wholesale value” means the average
4 wholesale value of lawfully manufactured and authorized sound
5 or audiovisual recordings. Proof of the specific wholesale value
6 of each nonconforming device or article is not required.

7 (2) As used in this subdivision, “audiovisual work” and
8 “recording” shall have the same meaning as in Section 653w.

9 ~~SEC. 15.~~

10 *SEC. 16.* Section 2085.5 of the Penal Code is amended to read:

11 2085.5. (a) In any case in which a prisoner owes a restitution
12 fine imposed pursuant to subdivision (a) of Section 13967 of the
13 Government Code, as operative prior to September 29, 1994,
14 subdivision (b) of Section 730.6 of the Welfare and Institutions
15 Code, or subdivision (b) of Section 1202.4, the Secretary of the
16 Department of Corrections and Rehabilitation shall deduct a
17 minimum of 20 percent or the balance owing on the fine amount,
18 whichever is less, up to a maximum of 50 percent from the wages
19 and trust account deposits of a prisoner, unless prohibited by
20 federal law, and shall transfer that amount to the California Victim
21 Compensation and Government Claims Board for deposit in the
22 Restitution Fund in the State Treasury. The amount deducted shall
23 be credited against the amount owing on the fine. The sentencing
24 court shall be provided a record of the payments.

25 (b) (1) When a prisoner is punished by imprisonment in a
26 county jail pursuant to subdivision (h) of Section 1170, in any case
27 in which a prisoner owes a restitution fine imposed pursuant to
28 subdivision (a) of Section 13967 of the Government Code, as
29 operative prior to September 29, 1994, subdivision (b) of Section
30 730.6 of the Welfare and Institutions Code, or subdivision (b) of
31 Section 1202.4, the agency designated by the board of supervisors
32 in the county where the prisoner is incarcerated is authorized to
33 deduct a minimum of 20 percent or the balance owing on the fine
34 amount, whichever is less, up to a maximum of 50 percent from
35 the county jail equivalent of wages and trust account deposits of
36 a prisoner, unless prohibited by federal law, and shall transfer that
37 amount to the California Victim Compensation and Government
38 Claims Board for deposit in the Restitution Fund in the State
39 Treasury. The amount deducted shall be credited against the

1 amount owing on the fine. The sentencing court shall be provided
2 a record of the payments.

3 (2) If the board of supervisors designates the county sheriff as
4 the collecting agency, the board of supervisors shall first obtain
5 the concurrence of the county sheriff.

6 (c) In any case in which a prisoner owes a restitution order
7 imposed pursuant to subdivision (c) of Section 13967 of the
8 Government Code, as operative prior to September 29, 1994,
9 subdivision (h) of Section 730.6 of the Welfare and Institutions
10 Code, or subdivision (f) of Section 1202.4, the Secretary of the
11 Department of Corrections and Rehabilitation shall deduct a
12 minimum of 20 percent or the balance owing on the order amount,
13 whichever is less, up to a maximum of 50 percent from the wages
14 and trust account deposits of a prisoner, unless prohibited by
15 federal law. The secretary shall transfer that amount to the
16 California Victim Compensation and Government Claims Board
17 for direct payment to the victim, or payment shall be made to the
18 Restitution Fund to the extent that the victim has received
19 assistance pursuant to that program. The sentencing court shall be
20 provided a record of the payments made to victims and of the
21 payments deposited to the Restitution Fund pursuant to this
22 subdivision.

23 (d) When a prisoner is punished by imprisonment in a county
24 jail pursuant to subdivision (h) of Section 1170, in any case in
25 which a prisoner owes a restitution order imposed pursuant to
26 subdivision (c) of Section 13967 of the Government Code, as
27 operative prior to September 29, 1994, subdivision (h) of Section
28 730.6 of the Welfare and Institutions Code, or subdivision (b) of
29 Section 1202.4, the agency designated by the board of supervisors
30 in the county where the prisoner is incarcerated is authorized to
31 deduct a minimum of 20 percent or the balance owing on the order
32 amount, whichever is less, up to a maximum of 50 percent from
33 the county jail equivalent of wages and trust account deposits of
34 a prisoner, unless prohibited by federal law. The agency shall
35 transfer that amount to the California Victim Compensation and
36 Government Claims Board for direct payment to the victim, or
37 payment shall be made to the Restitution Fund to the extent that
38 the victim has received assistance pursuant to that program, or
39 may pay the victim directly. The sentencing court shall be provided

1 a record of the payments made to the victims and of the payments
2 deposited to the Restitution Fund pursuant to this subdivision.

3 (e) The secretary shall deduct and retain from the wages and
4 trust account deposits of a prisoner, unless prohibited by federal
5 law, an administrative fee that totals 10 percent of any amount
6 transferred to the California Victim Compensation and Government
7 Claims Board pursuant to subdivision (a) or (c). The secretary
8 shall deduct and retain from any prisoner settlement or trial award,
9 an administrative fee that totals 5 percent of any amount paid from
10 the settlement or award to satisfy an outstanding restitution order
11 or fine pursuant to subdivision (n), unless prohibited by federal
12 law. The secretary shall deposit the administrative fee moneys in
13 a special deposit account for reimbursing administrative and
14 support costs of the restitution program of the Department of
15 Corrections and Rehabilitation. The secretary, at his or her
16 discretion, may retain any excess funds in the special deposit
17 account for future reimbursement of the department's
18 administrative and support costs for the restitution program or may
19 transfer all or part of the excess funds for deposit in the Restitution
20 Fund.

21 (f) When a prisoner is punished by imprisonment in a county
22 jail pursuant to subdivision (h) of Section 1170, the agency
23 designated by the board of supervisors in the county where the
24 prisoner is incarcerated is authorized to deduct and retain from the
25 county jail equivalent of wages and trust account deposits of a
26 prisoner, unless prohibited by federal law, an administrative fee
27 that totals 10 percent of any amount transferred to the California
28 Victim Compensation and Government Claims Board pursuant to
29 subdivision (b) or (d). The agency is authorized to deduct and
30 retain from a prisoner settlement or trial award an administrative
31 fee that totals 5 percent of any amount paid from the settlement
32 or award to satisfy an outstanding restitution order or fine pursuant
33 to subdivision (n), unless prohibited by federal law. Upon release
34 from custody pursuant to subdivision (h) of Section 1170, the
35 agency is authorized to charge a fee to cover the actual
36 administrative cost of collection, not to exceed 10 percent of the
37 total amount collected. The agency shall deposit the administrative
38 fee moneys in a special deposit account for reimbursing
39 administrative and support costs of the restitution program of the
40 agency. The agency is authorized to retain any excess funds in the

1 special deposit account for future reimbursement of the agency's
2 administrative and support costs for the restitution program or may
3 transfer all or part of the excess funds for deposit in the Restitution
4 Fund.

5 (g) In any case in which a parolee owes a restitution fine
6 imposed pursuant to subdivision (a) of Section 13967 of the
7 Government Code, as operative prior to September 29, 1994,
8 subdivision (b) of Section 730.6 of the Welfare and Institutions
9 Code, or subdivision (b) of Section 1202.4, the secretary, or, when
10 a prisoner is punished by imprisonment in a county jail pursuant
11 to subdivision (h) of Section 1170, the agency designated by the
12 board of supervisors in the county where the prisoner is
13 incarcerated, may collect from the parolee or, pursuant to Section
14 2085.6, from a person previously imprisoned in county jail any
15 moneys owing on the restitution fine amount, unless prohibited
16 by federal law. The secretary or the agency shall transfer that
17 amount to the California Victim Compensation and Government
18 Claims Board for deposit in the Restitution Fund in the State
19 Treasury. The amount deducted shall be credited against the
20 amount owing on the fine. The sentencing court shall be provided
21 a record of the payments.

22 (h) In any case in which a parolee owes a direct order of
23 restitution, imposed pursuant to subdivision (c) of Section 13967
24 of the Government Code, as operative prior to September 29, 1994,
25 subdivision (h) of Section 730.6 of the Welfare and Institutions
26 Code, or paragraph (3) of subdivision (a) of Section 1202.4, the
27 secretary, or, when a prisoner is punished by imprisonment in a
28 county jail pursuant to subdivision (h) of Section 1170, the agency
29 designated by the board of supervisors in the county where the
30 prisoner is incarcerated or a local collection program, may collect
31 from the parolee or, pursuant to Section 2085.6, from a person
32 previously imprisoned in county jail any moneys owing, unless
33 prohibited by federal law. The secretary or the agency shall transfer
34 that amount to the California Victim Compensation and
35 Government Claims Board for direct payment to the victim, or
36 payment shall be made to the Restitution Fund to the extent that
37 the victim has received assistance pursuant to that program, or the
38 agency may pay the victim directly. The sentencing court shall be
39 provided a record of the payments made by the offender pursuant
40 to this subdivision.

1 (i) The secretary, or, when a prisoner is punished by
2 imprisonment in a county jail pursuant to subdivision (h) of Section
3 1170, the agency designated by the board of supervisors in the
4 county where the prisoner is incarcerated, may deduct and retain
5 from moneys collected from parolees or persons previously
6 imprisoned in county jail an administrative fee that totals 10 percent
7 of any amount transferred to the California Victim Compensation
8 and Government Claims Board pursuant to subdivision (g) or (h),
9 unless prohibited by federal law. The secretary shall deduct and
10 retain from any settlement or trial award of a parolee an
11 administrative fee that totals 5 percent of an amount paid from the
12 settlement or award to satisfy an outstanding restitution order or
13 fine pursuant to subdivision (n), unless prohibited by federal law.
14 The agency is authorized to deduct and retain from any settlement
15 or trial award of a person previously imprisoned in county jail an
16 administrative fee that totals 5 percent of any amount paid from
17 the settlement or award to satisfy an outstanding restitution order
18 or fine pursuant to subdivision (n). The secretary or the agency
19 shall deposit the administrative fee moneys in a special deposit
20 account for reimbursing administrative and support costs of the
21 restitution program of the Department of Corrections and
22 Rehabilitation or the agency, as applicable. The secretary, at his
23 or her discretion, or the agency may retain any excess funds in the
24 special deposit account for future reimbursement of the
25 department's or agency's administrative and support costs for the
26 restitution program or may transfer all or part of the excess funds
27 for deposit in the Restitution Fund.

28 (j) When a prisoner has both a restitution fine and a restitution
29 order from the sentencing court, the Department of Corrections
30 and Rehabilitation shall collect the restitution order first pursuant
31 to subdivision (c).

32 (k) When a prisoner is punished by imprisonment in a county
33 jail pursuant to subdivision (h) of Section 1170 and that prisoner
34 has both a restitution fine and a restitution order from the
35 sentencing court, if the agency designated by the board of
36 supervisors in the county where the prisoner is incarcerated collects
37 the fine and order, the agency shall collect the restitution order
38 first pursuant to subdivision (d).

39 (l) When a parolee has both a restitution fine and a restitution
40 order from the sentencing court, the Department of Corrections

1 and Rehabilitation, or, when the prisoner is punished by
2 imprisonment in a county jail pursuant to subdivision (h) of Section
3 1170, the agency designated by the board of supervisors in the
4 county where the prisoner is incarcerated, may collect the
5 restitution order first, pursuant to subdivision (h).

6 (m) If an inmate is housed at an institution that requires food
7 to be purchased from the institution canteen for unsupervised
8 overnight visits, and if the money for the purchase of this food is
9 received from funds other than the inmate's wages, that money
10 shall be exempt from restitution deductions. This exemption shall
11 apply to the actual amount spent on food for the visit up to a
12 maximum of fifty dollars (\$50) for visits that include the inmate
13 and one visitor, seventy dollars (\$70) for visits that include the
14 inmate and two or three visitors, and eighty dollars (\$80) for visits
15 that include the inmate and four or more visitors.

16 (n) Compensatory or punitive damages awarded by trial or
17 settlement to any inmate, parolee, person placed on postrelease
18 community supervision pursuant to Section 3451, or defendant on
19 mandatory supervision imposed pursuant to subparagraph (B) of
20 paragraph (5) of subdivision (h) of Section 1170, in connection
21 with a civil action brought against a federal, state, or local jail,
22 prison, or correctional facility, or any official or agent thereof,
23 shall be paid directly, after payment of reasonable attorney's fees
24 and litigation costs approved by the court, to satisfy any
25 outstanding restitution orders or restitution fines against that
26 person. The balance of the award shall be forwarded to the payee
27 after full payment of all outstanding restitution orders and
28 restitution fines, subject to subdivisions (e) and (i). The Department
29 of Corrections and Rehabilitation shall make all reasonable efforts
30 to notify the victims of the crime for which that person was
31 convicted concerning the pending payment of any compensatory
32 or punitive damages. For any prisoner punished by imprisonment
33 in a county jail pursuant to subdivision (h) of Section 1170, the
34 agency is authorized to make all reasonable efforts to notify the
35 victims of the crime for which that person was convicted
36 concerning the pending payment of any compensatory or punitive
37 damages.

38 (o) (1) Amounts transferred to the California Victim
39 Compensation and Government Claims Board for payment of
40 direct orders of restitution shall be paid to the victim within 60

1 days from the date the restitution revenues are received by the
2 California Victim Compensation and Government Claims Board.
3 If the restitution payment to a victim is less than twenty-five dollars
4 (\$25), then payment need not be forwarded to that victim until the
5 payment reaches twenty-five dollars (\$25) or when the victim
6 requests payment of the lesser amount.

7 (2) If a victim cannot be located, the restitution revenues
8 received by the California Victim Compensation and Government
9 Claims Board on behalf of the victim shall be held in trust in the
10 Restitution Fund until the end of the state fiscal year subsequent
11 to the state fiscal year in which the funds were deposited or until
12 the time that the victim has provided current address information,
13 whichever occurs sooner. Amounts remaining in trust at the end
14 of the specified period of time shall revert to the Restitution Fund.

15 (3) (A) A victim failing to provide a current address within the
16 period of time specified in paragraph (2) may provide
17 documentation to the Department of Corrections and Rehabilitation,
18 which shall verify that moneys were collected on behalf of the
19 victim. Upon receipt of that verified information from the
20 Department of Corrections and Rehabilitation, the California
21 Victim Compensation and Government Claims Board shall transmit
22 the restitution revenues to the victim in accordance with the
23 provisions of subdivision (c) or (h).

24 (B) A victim failing to provide a current address within the
25 period of time specified in paragraph (2) may provide
26 documentation to the agency designated by the board of supervisors
27 in the county where the prisoner punished by imprisonment in a
28 county jail pursuant to subdivision (h) of Section 1170 is
29 incarcerated, which may verify that moneys were collected on
30 behalf of the victim. Upon receipt of that verified information from
31 the agency, the California Victim Compensation and Government
32 Claims Board shall transmit the restitution revenues to the victim
33 in accordance with the provisions of subdivision (d) or (h).

34 ~~SEC. 16. Section 4904 of the Penal Code is amended to read:~~
35 ~~4904. If the evidence shows that the crime with which the~~
36 ~~claimant was charged was either not committed at all, or, if~~
37 ~~committed, was not committed by the claimant, and that the~~
38 ~~claimant has sustained injury through his or her erroneous~~
39 ~~conviction and imprisonment, the California Victim Compensation~~
40 ~~and Government Claims Board shall report the facts of the case~~

1 and its conclusions to the next Legislature, with a recommendation
2 that an appropriation be made by the Legislature for the purpose
3 of indemnifying the claimant for the injury. The amount of the
4 appropriation recommended shall be a sum equivalent to one
5 hundred forty dollars (\$140) per day of incarceration served, and
6 shall include any time spent in custody, including in county jail,
7 that is considered to be part of the term of incarceration. That
8 appropriation shall not be treated as gross income to the recipient
9 under the Revenue and Taxation Code.

10 SEC. 17. No reimbursement is required by this act pursuant to
11 Section 6 of Article XIII B of the California Constitution because
12 the only costs that may be incurred by a local agency or school
13 district will be incurred because this act creates a new crime or
14 infraction, eliminates a crime or infraction, or changes the penalty
15 for a crime or infraction, within the meaning of Section 17556 of
16 the Government Code, or changes the definition of a crime within
17 the meaning of Section 6 of Article XIII B of the California
18 Constitution.